11 APR 2006

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

In re Application of LEUBA et al	:	
U.S. Application No.: 10/572,068	:	
PCT Application No.: PCT/CH02/00089	:	
Int. Filing Date: 14 February 2002	:	DECISION
Priority Date Claimed: 28 February 2001	:	
Attorney Docket No.: Q93938	:	
For: USE OF A NON-MAGNETIC COATING TO COVER PARTS IN A WATCH MOVEMENT	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 March 2006.

BACKGROUND

On 14 February 2002, applicant filed international application PCT/CH02/00089, which claimed priority of an earlier European Patent Office application filed 28 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 September 2002. The thirty-month period for paying the basic national fee in the United States expired on 28 August 2003.

International application PCT/CH02/00089 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 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 14 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10572072 Patent No.: 7495867 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:

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Certificates of Correction Branch
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Thank You For Your Assistance

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

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

Comments: Changes have been reviewed and approved MB

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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0 9 JAN 2007

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of:
VESTWEBER, Horst, et al.
U.S. Application No.: 10/572,074
PCT No.: PCT/EP2004/010505
International Filing Date: 18 September 2004
Priority Date: 20 September 2003
Attorney's Docket No.: 09931-00057-US
For: CONJUGATED POLYMERS, THEIR PREPARATION AND USES THEREOF

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Correction Of Inventorship" filed by applicants 17 July 2006, treated herein as a request under 37 CFR 1.497(d) to correct the inventorship in the present application. Deposit Account No. 03-2775 will be charged the $130 processing fee.

BACKGROUND

On 18 September 2004, applicants filed international application PCT/EP2004/010505. The application claimed a priority date of 20 September 2003, and it designated the United States. On 07 April 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 March 2006.

The published international application identified a corporate applicant for all states other than the U.S. and three applicant/inventors for the U.S.: Horst VESTWEBER, Anja GERHARD, and Philipp STOSSEL.

On 16 March 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 Application Data Sheet (ADS). The inventors listed on the ADS correspond to those listed on the published international application.

On 17 July 2006, applicants filed the "Correction Of Inventorship" treated herein as a request under 37 CFR 1.497(d), accompanied by a Supplemental ADS. The submission states that the wrong inventors were listed on this application, and seeks to remove the three inventors listed on the international application and replace them with the four inventors listed on the

accompanying Supplemental ADS: Aurelie FALCOU, Frank MEYER, Amir PARHAM, and Heinrich BECKER.

On 09 August 2006, applicants filed a declaration that names as inventors, and is executed by, the four inventors listed on the Supplemental ADS. Applicants also submitted at this time the surcharge for filing the declaration later than thirty months after the priority date.

DISCUSSION

The declaration filed on 09 August 2006 (and the Supplemental ADS filed on 17 July 2006) names a different inventive entity than that set forth in the international application. Specifically, the declaration fails to include any of the three inventors listed on the international application (Horst VESTWEBER, Anja GERHARD, and Philipp STOSSEL) and it includes four inventors who are not listed on the international application (Aurelie FALCOU, Frank MEYER, Amir PARHAM, and Heinrich BECKER).

Where the declaration in a national stage application names a different inventive entity than that set forth in the international application, 37 CFR 1.497(d) requires the applicant to submit: (1) a statement from each person being added or deleted as an inventor stating that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicants here have not submitted the required statements from the three deleted inventors or the four added inventors. Item (1) is therefore not satisfied.

The submission filed 17 July 2006 includes the authorization to charge Deposit Account No. 03-2775 for required fees. Based on this authorization, Deposit Account No. 03-2775 will be charged the required processing fee. Item (2) is satisfied.

Regarding item (3), applicants have not submitted the assent of the assignee to the change of inventorship. Item (3) is therefore not satisfied. It is noted that any such consent must be accompanied by a proper statement under 37 CFR 3.73(b) from the assignee.

Based on the above, the present record does not satisfy all the requirements of 37 CFR 1.497(d). The inventorship of record therefore remains that set forth in the international application. Because the inventors who executed the declaration filed 09 August 2006 are not the inventors of record herein, such declaration is defective under 37 CFR 1.497.

CONCLUSION

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

The declaration filed 09 August 2006 is defective for failure to properly identify the inventors of record herein.

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 items (1) and (3) of a grantable request under 37 CFR 1.497(d), 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

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29 AUG 2007

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CONNOLLY BOVE LODGE & HUTZ, LLP
1007 North Orange Street
P.O Box 2207
Wilmington, DE 19899

In re Application of:
VESTWEBER, et al.
U.S. Application No.: 10/572,074
PCT No.: PCT/EP2004/010505
International Filing Date: 18 September 2004
Priority Date: 20 September 2003
Attorney's Docket No.: 09931-00057-US
For: CONJUGATED POLYMERS, THEIR PREPARATION AND USES THEREOF

DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Petition For Correction Of Inventorship" filed by applicants 17 April 2006, treated herein as a renewed request under 37 CFR 1.497(d) to correct the inventorship in the present application. Applicants have previously submitted the required processing fee.

BACKGROUND

The procedural background for this application was set forth in the decision mailed herein on 09 January 2007. That decision dismissed without prejudice applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements for a grantable petition. The decision provided an extendable two-month deadline for applicants to file a request for reconsideration, accompanied by the outstanding requirements for a grantable request under 37 CFR 1.497(d).

On 26 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that the declaration filed 09 August 2006 was defective for failure to identify the inventors of record.

On 17 April 2007, applicants filed the "Petition For Correction Of Inventorship" considered herein as a renewed request under 37 CFR 1.497(d), accompanied by statements from the inventors being added and removed, as well as the assent of the assignee to the correction. Applicants have been charged the fee for the two month extension of time required for the 17 April 2007 filing to be treated as a timely response to the 09 January 2007 decision.

DISCUSSION

Initially, it is noted that the Notification Of Missing Requirements mailed 26 January 2007 was issued in error in that the decision issued herein on 09 January 2007 had already

addressed the defects in the previously filed declaration and had established a deadline for applicant to file responsive materials with respect to such declaration. Accordingly, the Notification of Missing Requirements is appropriately vacated.

With respect to the renewed submission under 37 CFR 1.497(d), applicants have now submitted statements from the three inventors being removed from the application and from the four inventors being added, each stating that the error in inventorship in the original application occurred without deceptive intent and stating that the correct inventors are: Aurelie LUDEMANN (former FALCOU), Frank MEYER, Amir PARHAM, and Heinrich BECKER. Applicants have also submitted a statement of consent from the assignee to the correction of the inventors herein.

However, there is an inconsistency with respect to the name of the first inventor whom applicants seek to have added to the application: this inventor is identified as "Aurelie FALCOU" on the declaration filed 09 August 2006, and as "Aurelie LUDEMANN (former FALCOU)" in the present submission. In order to resolve this inconsistency, applicants must submit either a revised declaration that identifies the inventors consistently with the present request (i.e., with the first inventor identified as Aurelie LUDEMANN), or a grantable petition to confirm the change the name of this inventor from Aurelie FALCOU to Aurelie LUDEMANN.[1]

Until the inconsistency in the record regarding the name of the first proposed added inventor is resolved, the previously filed declaration cannot be accepted and the inventorship herein cannot be corrected pursuant to 37 CFR 1.497(d).

CONCLUSION

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

The declaration filed 09 August 2006 remains defective for failure to properly identify the inventors of record herein.

The "Notification Of Missing Requirements" mailed 26 January 2007 is hereby **VACATED**.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Request Under 37 CFR 1.497(d)" and must include materials resolving the inconsistency in the name of the first inventor being added to the application, as discussed above (i.e., a revised declaration that identifies the

[1] Section 605.04(c) of the MPEP sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name where, as apparently is the case here, an inventor's name has been changed after the filing of the declaration. According to the MPEP, such a petition "must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order."

inventors consistently with the present request or a grantable petition under 37 CFR 1.182 to change the name of the first inventor from Aurelie FALCOU to Aurelie LUDEMANN).

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

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

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

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20 JUN 2008

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CONNOLLY BOVE LODGE & HUTZ, LLP
1007 North Orange Street
P.O Box 2207
Wilmington, DE 19899

In re Application of:
LUDEMANN, Aurelie, et al.
U.S. Application No.: 10/572,074
PCT No.: PCT/EP2004/010505
International Filing Date: 18 September 2004
Priority Date: 20 September 2003
Attorney's Docket No.: 09931-00057-US
For: CONJUGATED POLYMERS, THEIR PREPARATION AND USES THEREOF

DECISION

This decision is issued in response to the "Communication" filed by applicants on 29 October 2007, treated herein as a renewed request under 37 CFR 1.497(d) to correct the inventorship in the present application, and a petition under 37 CFR 1.182 to change the name of the first added inventor from FALCOU to LUDEMANN. Deposit Account No. 03-2775 will be charged the $400 petition fee required for the petition under 37 CFR 1.182.

BACKGROUND

The procedural background for this application was set forth in the decisions mailed herein on 09 January 2007 and 29 August 2007. The 29 August 2007 decision dismissed without prejudice applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements for a grantable petition. Specifically, the decision indicated that applicants were required to clarify the name of the first inventor being added. This inventor is identified as Aurelie FALCOU on the filed declaration and the Application Data Sheet (ADS); however, she is identified as "Aurelie LUDEMANN (former FALCOU)" on the materials filed pursuant to 37 CFR 1.497(d).

On 29 October 2007, applicants filed the "Communication" considered herein. The submission includes a statement from the first inventor being added confirming that her name has recently changed from Aurelie FALCOU to Aurelie LUDEMANN as the result of marriage.

DISCUSSION

A. Petition To Change Inventor's Name (37 CFR 1.182)

The present submission includes a statement from inventor Aurelie LUDEMANN confirming that she was recently married and that, as a result, her name was changed from

Aurelie FALCOU to Aurelie LUDEMANN. In addition, the present submission authorizes a charge for required fees. Based on this authorization, Deposit Account No. 03-2775 will be charged the $400 petition fee required for a petition to change an inventor's name under 37 CFR 1.182.

The petition fee payment and the statement from the inventor satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for inventor Aurelie FALCOU to Aurelie LUDEMANN. [1]

A. Renewed Request For Correction Of Inventorship (37 CFR 1.497(d)

Based on the clarification provided with the present submission confirming that Aurelie LUDEMANN, the person identified in the 37 CFR 1.497(d) materials, is the same person as Aurelie FALCOU, the first named inventor on the declaration filed 09 August 2006, it is concluded that applicants have satisfied the requirements for a grantable request to correct inventorship under 37 CFR 1.497(d). Therefore, correction of the inventorship herein so as to remove Horst VESTWEBER, Anja GERHARD, and Philipp STOSSEL and add inventors Aurelie LUDEMANN, Frank MEYER, Amir PARHAM, and Heinrich BECKER is appropriately granted.

In view of the present correction of inventorship, the declaration filed 09 August 2006 is no longer defective for failure to properly identify the inventors of record herein.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for the inventor identified on the declaration filed 09 August 2006 as Aurelie FALCOU is **GRANTED**.

The name of record for the first inventor named on the declaration is hereby changed from Aurelie FALCOU to Aurelie LUDEMANN.

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

Horst VESTWEBER, Anja GERHARD, and Philipp STOSSEL are deleted as inventors of record herein.

Aurelie LUDEMANN, Frank MEYER, Amir PARHAM, and Heinrich BECKER are added as inventors of record.

Based on the above correction of inventorship, the declaration filed 09 August 2006 is no longer defective for failure to properly identify the inventors of record herein.

---

[1] As indicated in MPEP section 605.04(c), it is suggested that applicants file a supplemental ADS including the new name for the first inventor, so as to insure that the corrected name is listed on any subsequent patent publications.

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 09 August 2006.

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

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20 MAR 2007

BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

In re Application of WÄNY :
U.S. Application No.: 10/572,108 :
PCT Application No.: PCT/CH2003/000629 :
Int. Filing Date: 18 September 2003 :
Priority Date Claimed: none : DECISION
Attorney Docket No.: 926_004 :
For: OPTOELECTRONIC DETECTOR WITH MULTIPLE READOUT NODES AND ITS USE THEREOF :

This is in response to applicant's "Petition Pursuant to 37 C.F.R. §1.47(b)" filed 28 February 2007.

BACKGROUND

On 18 September 2003, applicant filed international application PCT/CH2003/000629. 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 18 March 2006.

On 16 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 17 November 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 February 2007, applicant filed the present petition under 37 CFR 1.47(b) along with an executed declaration.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known 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. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

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 inventor Martin Wäny 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 Wäny for signature. Specifically, three separate letters were mailed to Wäny and were successfully delivered. (see affidavit of Andreas Detken). The petition further illustrates that Wäny refuses to sign. In particular, Wäny made an express oral refusal to sign during a telephone conversation on 22 December 2006 with Mr. Detken. Additionally, Wäny has failed to respond to the letters mailed to him. Thus, it can be concluded with reasonable certainty that Wäny refuses to join in the application.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

In the present case, item (C) above applies. With respect to item (C), MPEP 409.03(f) states,

> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner has furnished an appropriate legal memorandum which states that title of the present invention would be awarded to Photonfocus AG. The memorandum is supported by the affidavit of Peter Mario Schwider, the person with stated firsthand knowledge of the present invention being made by Wäny during his employment with Photonfocus AG. Therefore, the petition adequately establishes that Photonfocus AG has sufficient proprietary interest in the present invention.

With regard to item (6) above, the petition makes a sufficient showing regarding the preservation of rights of the parties.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 18 September 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 28 February 2007.

As set forth in 37 CFR 1.47(b), 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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OFFICE OF PETITIONS

QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON WI 53701-2113

In re Application of :
Speziali :
Application No. 10/572,112 : DECISION ON PETITION
Filed: 16 March, 2006 :
Attorney Docket No. 630666.00026 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 28 January, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 C.F.R. §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. §1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. §119(e) and 37 C.F.R. §1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on 19 January, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/518,456, which was filed on 7 November, 2003, and for which priority is claimed. However, while the reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, that incorporation by reference was not present as to

Application No. 60/518,456 on deposit of the instant application, but rather was present as to Application No. 60/518,531 on deposit of the instant application. Thus, the amendment presented contains an improper incorporation by reference.

Thus, the present matter fails to satisfy item (1), above,

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. §132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. §119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §201.06(c) and §608.04(b)

Accordingly, before the petition under 37 C.F.R. §1.78(a)(6) can be granted, a renewed petition under 37 C.F.R. §1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) deleting the incorporation by reference statement, is required.

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

By Mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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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 John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON WI 53701-2113

COPY MAILED

OCT 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Speziali :
Application No. 10/572,112 : DECISION ON PETITION
Filed: 16 March, 2006 :
Attorney Docket No. 630666.00026 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 24 July, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

A petition under 37 C.F.R. §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. §1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. §119(e) and 37 C.F.R. §1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on 19 January, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/518,456, which was filed on 7 November, 2003, and for which priority is claimed. On original petition, filed on 28 January, 2009, a reference to the prior-filed provisional application was included in an amendment to the first sentence of the specification following the title, however, while the

reference to the prior-filed provisional application was included in an amendment to the first sentence of the specification following the title, that incorporation by reference was not present as to Application No. 60/518,456 on deposit of the instant application, but rather was present as to Application No. 60/518,531 on deposit of the instant application—thus, the amendment presented contained an improper incorporation by reference. The petition was dismissed on 19 June, 2009. The renewed petition was filed on 24 July, 2009, with a new amendment deleting the improper incorporation by reference and so seeking to overcome the prior deficiency.

All of the above requirements now have been satisfied, and the late claim for priority under 35 U.S.C. §119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. §1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed 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. §119(e) and 37 C.F.R. §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 application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center AU 3735 for consideration by the Examiner of the claim under 35 U.S.C. § 119(e) of the prior-filed provisional application.

Questions concerning this matter may be directed to John Gillon, attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/572,112	03/16/2006	3735	600	630666.00026	10	2

CONFIRMATION NO. 9357

CORRECTED FILING RECEIPT

26735
QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON, WI 53701-2113

Date Mailed: 10/02/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Giovanni Speziali, Rochester, MN;

Power of Attorney: The patent practitioners associated with Customer Number 26735

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/37221 11/05/2004
which claims benefit of 60/518,531 11/07/2003
and claims benefit of 60/518,456 11/07/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/572,112**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Device and method for treating congestive heart failure

Preliminary Class

600

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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THE LAW OFFICES OF JOHN C. SCOTT, LLC
C/O INTELLEVELE, LLC
P. O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 05/13/2010

Applicant	: Andrei Ovchinnikov	: DECISION ON REQUEST FOR
Patent Number	: 7624334	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/572,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/21/2010

Applicant	: Glen Gough	: DECISION ON REQUEST FOR
Patent Number	: 7597051	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,124	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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THE LAW OFFICES OF JOHN C. SCOTT, LLC
C/O INTELLEVELE, LLC
P. O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/22/2010

Applicant	: Vladimir Bykovnikov	: DECISION ON REQUEST FOR
Patent Number	: 7613242	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,125	: 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 **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of :
Patrick G. Rafter :
Application No. 10/572,155 : DECISION ON PETITION
Filed: March 16, 2006 :
Attorney Docket No. US030421US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed August 20, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 21, 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 after non-final, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3768 for appropriate action by the Examiner in the normal course of business on the reply received May 28, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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APR 0 3 2008

OFFICE OF PETITIONS

Applicant: Wiedemann et al.
Appl. No.: 10/572,176
Filing Date: September 16, 2004
Title: HEATING ELEMENT FOR COOKING APPLIANCES
Attorney Docket No.: 30931/F50019
Pub. No.: US 2007/0084457-A1
Pub. Date: April 19, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 11, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Thomas Schreiner, Frederic Renaud, Pascal Gluck and Simon Kastra were not listed as inventors on the front page of the patent application publication.

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

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

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be

[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).

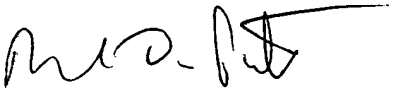
accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. 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

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

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OFFICE OF PETITIONS

In re Application of :
JuRgen Dorn :
Application No. 10/572,191 : DECISION ON PETITION
Filed: April 11, 2006 : TO WITHDRAW
Attorney Docket No. 101670011P : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: TODD W. WRIGHT
RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

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

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In re Application of	:	
JuRgen Dorn	:	
Application No. 10/572,191	:	DECISION ON PETITION
Filed: April 11, 2006	:	TO WITHDRAW
Attorney Docket No. 48005201100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

05 MAY 2008

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Christine C Vito
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM
Patent Administrator
75 State Street
Boston, MA 02109-1808

In re Application of	:	
AYRES, Colin C. et al.	:	
Application No.: 10/572,200	:	DECISION
PCT No.: PCT/AU2004/001271	:	
Int. Filing Date: 20 September 2004	:	ON PETITION UNDER
Priority Date: 19 September 2003	:	
Docket No.: GFH-002	:	37 CFR 1.137(b)
For: VESSEL STABILISATION APPARATUS AND METHOD	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 26 February 2008 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted. The search fee, examination fee and fee for late filing of the search fee, examination fee or oath or declaration are required.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing 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), the search fee, the examination fee and the fee for late filing of the search fee, examination fee or oath or declaration are required.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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Date Mailed: January 19, 2008

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

Applicant: Hogan et al.
Appl. No.: 10/572,230
Filing Date: November 9, 2006
Title: SYSTEM AND METHOD FOR CONTROLLING ACCESS TO A MASSIVELY MULTIPLAYER ON-LINE ROLE-PLAYING GAME
Attorney Docket No.: 19815-016US1
Pub. No.: US 2007/0111794 A1
Pub. Date: May 17, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on January 11, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission. In addition, the applicant did not supply a complete copy of the application. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

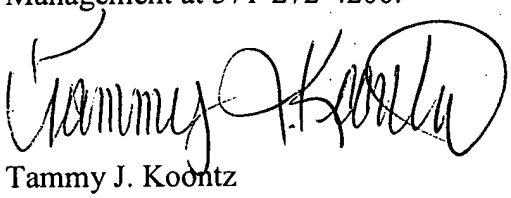
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision should be addressed as follows:

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.



Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 01/18/2008 KKING1
01/11/2008 INTEFSW 00007690 061050 10572230
01 FC:1504 300.00 CR

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

Date Mailed: April 14, 2008

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

Applicant: Hogan et al.
Appl. No.: 10/572,230
Filing Date: September 17, 2004
Title: SYSTEM AND METHOD FOR CONTROLLING ACCESS TO A MASSIVELY MULTIPLAYER ON-LINE ROLE-PLAYING GAME
Attorney Docket No.: 19815-016US1
Pub. No.: US 2007/0111794 A1
Pub. Date: May 17, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 11, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

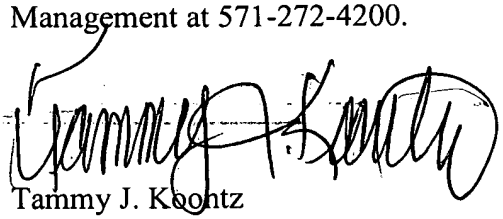
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision should be addressed as follows:

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.



Tammy J. Koontz
Program & Management Analyst
Office of Data Management

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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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JOHN S. BEULICK
C/O ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

COPY MAILED

MAR 0 4 2008

OFFICE OF PETITIONS

Applicant: Bayer et al.
Appl. No.: 10/572,253
International Filing Date: September 17, 2004
Title: METHODS AND APPARATUS FOR BREATH ALCOHOL TESTING
Attorney Docket No.: 04819-28
Pub. No.: US 2007/0154765-A1
Pub. Date: July 5, 2007

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

The request is DISMISSED.

Applicants request that the application be republished because the front page of the patent application publication contains an error, as the Assignees information should be changed from "INTOXIMETERS, INC., St. Louis, MI (US)" and "ALCOTEK, INC., Brentwood, MI (US)" to to "INTOXIMETERS, INC., St. Louis, MO (US)" and "ALCOTEK, INC., Brentwood, MO (US)".

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 assignment information. The assignment information

[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).

was not provided with an application data sheet or transmittal letter on filing.[2] The error 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.

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

On March 28, 2007, a Filing Receipt was mailed by the Office, which improperly listed the assignment information. To avoid this type of problem in the future, applicants' representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

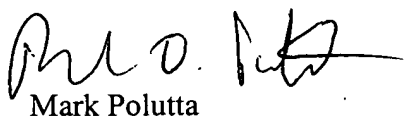
Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication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

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

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

By facsimile: 571-273-8300

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



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

[2] See 37 CFR 1.215, MPEP 1122 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Heung-Mook Kang	: DECISION ON REQUEST FOR
Patent Number	: 7603743	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **297** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Application of	:	
DIMITRIJEVIC et al.	:	
Application No.: 10/572,259	:	DECISION
PCT No.: PCT/EP2004/010467	:	
Int. Filing Date: 17 September 2004	:	
Priority Date: 19 September 2003	:	
Attorney's Docket No.: 4-33374A	:	
For: TREATMENT OF GASTROINTESTINAL STROMAL TUMORS WITH IMATINIB AND MIDOSTAURIN	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 02 October 2007, which has properly been treated as a petition under 37 CFR 1.182. The petition fee of $400 has been charged to Deposit Account 19-0134. The petition is **GRANTED** as discussed below.

BACKGROUND

On 17 September 2004, applicants filed international application PCT/EP2004/010467, which designated the United States and claimed a priority date of 19 September 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 31 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 March 2006 (19 March 2006 being a Sunday).

On 17 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 transmittal letter requested that the application papers be processed as the national stage application of international application PCT/EP2004/010467. This submission was assigned application number **10/572,259**.

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 (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 08 January 2007, applicants filed a response to the NOTIFICATION OF MISSING

REQUIREMENTS via the Electronic Filing System (EFS). However, when filing the response electronically, it appears that applicants in the Graphical User Interface indicated that the submission was a new application under 35 U.S.C.111(a) instead of a response in the above-identified application. These papers were assigned application number **11/620,824**.

On 02 October 2007, applicants filed the instant petition, which has properly been treated as a petition under 37 CFR 1.182.

DISCUSSION

The petition requests that the papers filed 08 January 2007 and assigned application number 11/620,924 be moved to the instant application. Because applicant indicated the submission as a new application rather than as a response in an existing application, it is proper to treat the petition under 37 CFR 1.182. A review of the application file including counsel's statements in the present petition reveals that the indication of the papers filed 08 January 2007 as a new application was incorrect and that, on petition, the acceptance of these documents in the above-identified application is appropriate.

CONCLUSION

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

Applicant should use application number **10/572,259** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/EP2004/010467.

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

25 JAN 2007

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Alexandria, VA 22313-1450
www.uspto.gov

Bradley K. Groff
Gardner Groff Santos & Greenwald, P.C.
2018 Powers Ferry Road
Suite 800
Atlanta, GA 30339

In re Application of	:	
FLYNN, et al.	:	
U.S. Application No.: 10/572,267	:	DECISION ON PETITION
PCT No.: PCT/US04/24407	:	
Int. Filing Date: 28 July 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G02.1-152 1	:	
For: LANCING DEVICE END CAP WITH ROCKING ACTUATED SURFACE FEATURES	:	

This decision is in response to the applicant's petition under 37 CFR § 1.47 (a) filed 26 December 2006 in the United States Patent and Trademark Office (UPSTO) to accept the application without the signature of joint inventor Sylvia Ramos. Applicant has provided payment of $130.00 for the petition fee. Applicant is advised that the petition fee is $200.00. The $70.00 difference will be charged to deposit account number 50-1513 as authorized.

BACKGROUND

On 28 July 2004, applicant filed international application PCT/US04/24407 which claimed priority to an earlier application filed 18 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 18 March 2006.

On 15 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 and application data sheet.

On 26 December 2006, applicant filed the present petition under 37 CFR 1.47.

DISCUSSION

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

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

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

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

> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

Applicant has included a firsthand statement that the non-signing inventor was mailed a complete set of application papers via Federal Express. However, the tracking information provided does not include any receipt signature information to confirm that the inventor still lives at the address the package was mailed to or that it was actually received by Ms. Ramos. Thus, it is not possible to take the inventor's subsequent silence as a refusal to cooperate as there is a question as to whether the mailing address used was correct. In addition, applicant appears to have found at least one other address for the inventor calling into question the last known address used. It appears from the petition that applicant did not mailed a set of application papers to this address.

Regarding applicant's diligent effort to locate the non-signing inventor, the internet search results provided end at "Juan Ramos." Based on applicant's petition it appears other addresses for Sylvia Ramos were found but these results were not provided.

Regarding item (4), while applicant has submitted a declaration signed by the remaining inventors on their own and on behalf of the non-signing inventors, however, the declaration does not comply with 37 CFR 1.497. The filed declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor does not list the citizenship for inventor Sylvia

Ramos as required by 37 CFR 1.497(a)(3).

In addition, the declaration contains two pages numbered "Sheet No. 3" This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

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

CONCLUSION

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

01/25/2007 SBOSHEIR 00000002 501513 10572267
Sale Ref: 00000002 DA#: 501513 10572267
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 01/25/2007 SBOSHEIR
12/27/2006 HGUTEMA1 00000050 10572267
01 FC:1464 -130.00 OP

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05 SEP 2007

Bradley K. Groff
Gardner Groff Santos & Greenwald, P.C.
2018 Powers Ferry Road
Suite 800
Atlanta, GA 30339

In re Application of	
FLYNN, et al.	
U.S. Application No.: 10/572,267	DECISION ON RENEWED
PCT No.: PCT/US04/24407	
Int. Filing Date: 28 July 2004	PETITION UNDER
Priority Date: 18 September 2003	
Attorney Docket No.: 2G02.1-152 1	37 CFR 1.47(a)
For: LANCING DEVICE END CAP WITH ROCKING ACTUATED SURFACE FEATURES	

This decision is in response to the applicant's renewed petition under 37 CFR § 1.47 (a) filed 24 July 2007 in the United States Patent and Trademark Office (UPSTO) to accept the application without the signatures of inventor Sylvia Ramos and Jac Holzaepfel.

BACKGROUND

On 25 January 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended.

On 24 July 2007, applicant filed the present renewed petition accompanied by a petition for a four-month extension of time and payment of the appropriate extension of time fee.

DISCUSSION

As detailed in the decision mailed 25 January 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1) and (3) above.

With the filing of the present renewed petition and supporting documentation applicant has satisfied the remaining two items and it is proper to grant applicant's renewed petition at this time. Applicant has madea diligent effort to contact the non-signing inventors. In addition, a review of the filed declaration finds it in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The application has an international filing date of 28 July 2004 under 35 U.S.C. 363, and will be given a date of **24 July 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 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

23 MAY 2007

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GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of	:	
FLYNN, Stephen et al.	:	
Application No.: 10/572,270	:	DECISION ON
PCT No.: PCT/US2004/024394	:	
Int. Filing Date: 28 July 2004	:	PETITION
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G02.1-157	:	UNDER 37 CFR 1.47(a)
For: LANCING DEVICE WITH PIVOTING END CAP	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 26 December 2006.

BACKGROUND

On 28 July 2004, applicants filed international application PCT/US2004/024394, which claimed a priority date of 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 March 2006.

On 15 March 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 and a copy of the Rule 4.17 declaration.

On 30 October 2006, the Office mailed Notification of Acceptance indicated that the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) were satisfied on 15 March 2006.

On 26 December 2006, applicants submitted a petition under 37 CFR 1.47(a) and a request for a corrected filing receipt.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) have been satisfied. The balance of the $200 petition fee will be charged to deposit account no. 50-1513, as authorized. Applicants list Sylvia Ramos' address as 1114 Vinings Parkway; Smyrna, GA 30080.

Item (2) has not been satisfied. Applicants have sent a complete copy of the application papers to Ms. Ramos' last known address. However, it is unclear whether that address is still a current address. Applicants have provided printouts of internet searches of the attempts to verify Ms. Ramos's address. However, it does not appear that Bradley K. Groff has first hand knowledge of the attempts to locate Ms. Ramos. A statement from the person who contacted the numbers, in particular the phone number for the last known address and the phone number for her name.

Item (4) has not been satisfied. It appears the declaration has been pieced together from separate declarations, as multiple sheets list the same inventors, but were separately executed. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete declaration listing all inventors, as executed by the inventors must be supplied to the Office. An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

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

The Notification of Acceptance (FORM PCT/DO/EO/903) mailed 30 October 2006 is **VACATED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

19 NOV 2007

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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of	:	
FLYNN, Stephen et al.	:	
Application No.: 10/572,270	:	DECISION ON
PCT No.: PCT/US2004/024394	:	
Int. Filing Date: 28 July 2004	:	PETITION
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G02.1-157	:	UNDER 37 CFR 1.47(a)
For: LANCING DEVICE WITH PIVOTING END CAP	:	

This is a decision on applicants' Renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 21 September 2007.

BACKGROUND

On 23 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice and setting a two month extendable time period for reply.

On 21 September 2007, applicant filed this renewed petition accompanied by the fee for a two month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) were previously satisfied as to Ms. Ramos. Mr. Holzaepfel's last known address is 106 Fen Way, Peachtree City, GA 30269

Item (2) has been satisfied as to Jac Holzaepfel, but not as to Sylvia Ramos. Applicants have sent application papers to the last known mailing addresses of Mr. Holzaepfel and Sylvia Ramos. Both were returned as undeliverable. Applicants then conducted internet searches to locate new addresses for these inventors and contacted the phone numbers. However, applicants

indicate that Sylvia Ramos is also known as Sylvia Ramos LeBron, but the internet searches did not include a search for the surname LeBron. A diligent effort to locate the non-signing inventor would include searches for both of her known surnames and the appropriate followup.

Item (4) has not been satisfied. The declaration of Mr. Salleras is defective. The citizenship of Mr. Flynn was stricken through, but the alteration was not initialed and dated. 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. MPEP 605.04(a).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

11/19/2007 SBASHEIK 00000004 10572270
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GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of	:	
FLYNN, Stephen et al.	:	
Application No.: 10/572,270	:	DECISION ON
PCT No.: PCT/US2004/024394	:	
Int. Filing Date: 28 July 2004	:	PETITION
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G02.1-157	:	UNDER 37 CFR 1.47(a)
For: LANCING DEVICE WITH PIVOTING END CAP	:	

This is a decision on applicants' Renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 19 March 2008.

BACKGROUND

On 19 November 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice and setting a two month extendable time period for reply.

On 19 March 2008, applicant filed this renewed petition accompanied by the fee for a two month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) were previously satisfied as to Ms. Ramos. Mr. Holzaepfel's last known address is 106 Fen Way, Peachtree City, GA 30269

Item (2) was previously satisfied as to Jac Holzaepfel. It has now been satisfied as to Sylvia Ramos. Applicants sent application papers to the last known mailing address of Ms. Ramos, that were were returned as undeliverable. Applicants then conducted internet searches to locate new addresses for these inventors and contacted the phone numbers.

However, applicants indicated that Sylvia Ramos is also known as Sylvia Ramos LeBron. Applicants have now provided internet searches conducted by Ms. Hall for the name "LeBron". Applicants did a nationwide search for Ms. Ramos at considerable effort, but such search was never requested. A search for the name "LeBron" in followup to the earlier submission for the Georgia address was all that was requested. The search of the MIT student listings is noted and appreciated.

Item (4) has been satisfied.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **19 March 2008**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

20 MAY 2008

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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Jac Holzaepfel
106 Fen Way
Peachtree City, GA 30269

In re Application of
FLYNN, Stephen et al.
Application No.: 10/572,270
PCT No.: PCT/US2004/024394
Int. Filing Date: 28 July 2004
Priority Date: 18 September 2003
Attorney Docket No.: 2G02.1-157
For: LANCING DEVICE WITH PIVOTING END CAP

Dear Mr. Holzaepfel:

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

2 0 MAY 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Sylvia Ramos
1114 Vinings Parkway
Smyrna, GA 30080

In re Application of
FLYNN, Stephen et al.
Application No.: 10/572,270
PCT No.: PCT/US2004/024394
Int. Filing Date: 28 July 2004
Priority Date: 18 September 2003
Attorney Docket No.: 2G02.1-157
For: LANCING DEVICE WITH PIVOTING END CAP

Dear Ms. Ramos:

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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23334
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO, P.L.
One Boca Commerce Center
551 Northwest 77th Street, Suite 111
Boca Raton, FL 33487

In re Application of :
LENEZ *et al* :
U.S. Application No.: 10/572,295 :
PCT No.: PCT/EP04/12184 :
Int. Filing Date: 15 September 2004 : **DECISION**
Priority Date: 15 September 2003 :
Attorney Docket No.: 03-GR2-228 :
For: METHOD AND SYSTEM FOR :
CONTROLLING A RECEIVER IN A :
DIGITAL COMMUNICATION SYSTEM :

This decision is in response to the declaration filed 09 July 2007 which is treated as a petition under 37 CFR 1.42.

BACKGROUND

On 12 December 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 09 July 2007, applicants filed a response which was accompanied by, *inter alia*, a five-month extension and fee and a declaration signed by two of the three named inventors and Patrice Lenez as legal representative of deceased inventor, Thierry Lenez.

On 24 September 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements is 09 July 2007.

DISCUSSION

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

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary

oath or declaration, and apply for and obtain the patent.

Applicants submitted a declaration signed by two of the three named inventors and Patrice Lenez as legal representative of deceased inventor, Thierry Lenez. The declaration contains the citizenship, residence and address of the legal representative pursuant to 37 CFR 1.497(b)(2). However, the required citizenship information of the deceased inventor is not recorded on the declaration pursuant to 37 CFR 1.497(a)(3).

As such, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons noted above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 24 September 2007 were sent in error and hereby **VACATED**.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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OFFICE OF PETITIONS

In re Application of :
Tanzi Besant et al. :
Application No. 10/572,300 : DECISION ON PETITION
Filed: December 20, 2006 : TO WITHDRAW
Attorney Docket No. 275/3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed for items 1-3 listed above.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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In re Application of :
Tanzi Besant et al. :
Application No. 10/572,300 : DECISION ON PETITION
Filed: December 20, 2006 : TO WITHDRAW
Attorney Docket No. 275/3 : 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 13, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. This change has been made in order to avoid subsequent correspondence being directed to an incorrect address or to a practitioner who has not been appointed as practitioner of record by the applicant.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with any renewed request to update the application file.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
975 Page Mill Road
Palo Alto, CA 93404

In re Application of	:	
Bruce Charles Baguley, et al.	:	
Application No. 10/572,304	:	DECISION ON PETITION
Filed: July 24, 2006	:	TO WITHDRAW
Attorney Docket No. NVT-087USRCE	:	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 3, 2010.

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

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on April 1, 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LAHIVE & COCKFIELD, LLP**
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109

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13 FEB 2007

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

In re Application of:	:	
KAIZUKA, Kazutoshi	:	
Application No.: 10/572,325	:	DECISION
PCT No.: PCT/IB2004/003048	:	
Int. Filing Date: 17 September 2004	:	
Priority Date: 19 September 2003	:	
Attorney Docket No.: 45144-00092	:	
For: HAIR CURLER	:	

This decision is issued in response to the "Request For Reissuance Of Notification Of Missing Requirements Due To Office Error" filed 29 December 2006, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 17 September 2004, applicant filed international application number PCT/IB2004/003048. The international application claimed a priority date of 19 September 2003, and it designated the United States. On 31 March 2005, the International Bureau (IB) transmitted a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for payment of the U.S. basic national was thirty months from the priority date, i.e., 19 March 2006.

On 17 March 2006, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 18 July 2006, a "Change Of Correspondence Address" (Form PTO/SB/122) was filed, requesting that the correspondence address herein be changed from the address listed on the original transmittal letter filed 17 March 2006 to the new address set forth above.

On 18 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 in compliance with 37 CFR 1.497 and the surcharge for filing this oath or declaration later than thirty months from the priority date were required. The Form PCT/DO/EO/905 was mailed to the original correspondence address, not to the new correspondence address indicated above.

On 29 December 2006, applicant filed the "Request For Reissuance Of Notification Of Missing Requirements Due To Office Error" considered herein.

DISCUSSION

As noted above, an effective Change Of Correspondence Address was filed herein on 18 July 2006, prior to the 18 August 2006 mailing of the Notification Of Missing Requirements. The Notification should therefore have been addressed to the new correspondence address listed above. Instead, however, the Notification Of Missing Requirements was addressed to the original correspondence address.

Because the Notification Of Missing Requirements not directed to the proper address, the Notification is appropriately vacated.

CONCLUSION

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

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 18 August 2006 to the previous correspondence address is hereby **VACATED.**

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this communication, including the issuance of a new Notification Of Missing Requirements (Form PCT/DO/EO/905) directed to the above-listed correspondence address of record.

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

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OFFICE OF PETITIONS

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

In re Application of	:	
BLANK, Thiemo A. et al.	:	
Application No. 10/572,333	:	DECISION ON PETITION
Filed: April 07, 2006	:	TO WITHDRAW
Attorney Docket No. **1016710012P**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER, LLP has been revoked by the assignee of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas Stadlmayr, et al.	:	
Application No. 10/572,356	:	DECISION DISMISSING PETITION
Filed: March 16, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P29270	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED.**

The petition under 1.182 to correct the assignee data in the patent application is not a proper submission to the RCE. A petition to under 3.81(b) for a Certificate of Correction maybe filed.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed in due course.

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

Terri Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,721,773
Issue Date: May 25, 2010
Application No. 10/572,356
Filed: March 16, 2006
Attorney Docket No. **P29270**

DECISION ON PETITION

This is a decision on the petition, filed, May 21, 2010 and resubmitted on June 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Krones Aktiengesellschaft, Neutraubling (DE)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Krones Aktiengesellschaft, Neutraubling (DE)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions

09 JUL 2007

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LOWE, HAUPTMAN, GILMAN & BERNER, LLP (ITW)
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of UEJIMA et al.
Application No.: 10/572,363
PCT No.: PCT/IB04/03016
Int. Filing: 16 September 2004
Priority Date: 19 September 2003
Attorney Docket No.: 713-1195
For: CONNECTING FASTENER AND FASTENER HOLDER

DECISION ON PETITION

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office on 23 January 2007 in the above-captioned application.

BACKGROUND

On 16 September 2004, applicant filed international application PCT/IB04/03016 claiming a priority date of 19 September 2003. On 31 March 2005, the international application was published identifying the inventors as Yasutsugu UESHIMA and Keiji YAMAGAWA.

On 16 March 2006, within the thirty month period, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371 requesting entry into the national stage of PCT/IB04/03016, accompanied a declaration executed under PCT Rule 4.17. It is noted that the declaration does not identify the international application and was executed on 17 September 2004, the day after the filing of the international application.

On 04 December 2006, a Notification of Missing Requirements was mailed indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) because the "first inventor's name was spelled Ueshima on the international application and spelled Uejima on the declaration". Applicant was asked to clarify and was given TWO months from the mail date of the notification.

On 23 January 2007, applicant filed the instant response to Notification of Missing Requirements.

DISCUSSION

Applicant responded with the statement that "the executed declaration submitted to the U.S. Patent and Trademark Office on March 16, 2006 correctly identifies the first inventor's name as Yasutsugu UEJIMA." No explanation is offered as to how the error in the first named inventor's name occurred, e.g. is this a correction of a transliteration or typographical error or has the inventor's name been legally changed, etc. The declaration as filed is not in compliance with 37 CFR 1.66 or 1.68 as it identifies a legal entity not identified on the international application and is unacceptable as filed. As indicated in Section 201.03 of the Manual of Patent Examining

Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. However, the Office should be notified of the error and provide an explanation.

Upon closer review, it is also noted that the declaration does not identify the application to which it is directed and thus, is not in compliance with 37 CFR 1.497(a) and (b) and is unacceptable.. Further, the declaration does not identify the same second named inventor as that listed on the published international application. The international application identifies Keiji YAMAGAWA as the second named inventor. However, the executed declaration lists the second inventor as Keiji YAMAKAWA. Thus the declaration was not executed in accordance with either 37 CFR 1.66 or 1.68. A new declaration, in compliance with 37 CFR 1.497(a) and (b), is required. See MPEP 1893.01(e).

Thus, the declaration submitted on 16 March 2006 is unacceptable and does not meet the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason set forth above, the declaration of inventors submitted by applicants on 16 March 2006 is not acceptable.

Applicant is required to submit a newly executed declaration, and an explanation of the correction of the last names of both inventors within ONE (1) MONTH from the mail date of this decision. No extensions of time are available. Failure to reply to this decision will result in abandonment of the application.

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

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

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

0 1 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOWE, HAUPTMAN, GILMAN & BERNER, LLP (ITW)
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of UEJIMA et al.
Application No.: 10/572,363
PCT No.: PCT/IB04/03016
Int. Filing: 16 September 2004
Priority Date: 19 September 2003
Attorney Docket No.: 713-1195
For: CONNECTING FASTENER AND FASTENER HOLDER

DECISION ON PETITION

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office on 23 January 2007 in the above-captioned application.

BACKGROUND

On 16 September 2004, applicant filed international application PCT/IB04/03016 claiming a priority date of 19 September 2003. On 31 March 2005, the international application was published identifying the inventors as Yasutsugu UESHIMA and Keiji YAMAGAWA.

On 16 March 2006, within the thirty month period, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371 requesting entry into the national stage of PCT/IB04/03016, accompanied a declaration executed under PCT Rule 4.17. It is noted that the declaration does not identify the international application and was executed on 17 September 2004, the day after the filing of the international application.

On 04 December 2006, a Notification of Missing Requirements was mailed indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) because the "first inventor's name was spelled Ueshima on the international application and spelled Uejima on the declaration". Applicant was asked to clarify and was given TWO months from the mail date of the notification.

On 23 January 2007, applicant filed a response to Notification of Missing Requirements. On 09 July 2007, a decision was mailed advising applicant that the declaration was unacceptable and not in compliance with 37 CFR 1.497(a) and (b).

On 09 August 2007, applicant submitted a newly executed declaration along with an explanation of the transliteration error in the Japanese inventors names.

DISCUSSION

Applicant provided a letter of Toyoko Haneda Marcantoni, who is fluent in English and Japanese explaining that a transliteration error occurred in the Japanese inventors' names,

Yasutsugu UEJIMA and Keiji YAMAKAWA.

The newly executed declaration identifies the application to which it is directed and thus, is now in compliance with 37 CFR 1.497(a) and (b) and is acceptable. Thus, the declaration submitted on 09 August 2007 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason set forth above, the declaration of inventors submitted by applicants on 09 August 2007 is acceptable. The surcharge of $130, for filing the declaration after the thirty month period, will be charged to applicant's deposit account per his authorization.

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 **09 August 2007.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John R. Lastova
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of
OSTERLING, et al.
Application No.: 10/572,367
PCT No.: PCT/IB04/03170
Int. Filing Date: 29 September 2004
Priority Date: 30 September 2003
Attorney Docket No.: 2380-975
For: INTERFACE, APPARATUS, AND METHOD FOR COMMUNICATION BETWEEN A RADIO EQUIPMENT CONTROL NODE ANDA REMOTE EQUIPMENT NODE IN A RADIO BASE STATION

DECISION ON PETITION

UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Petition to Correct Inventorship Under Rule 1.48)" filed 08 January 2007 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.497(d). Applicant has provided payment of the $130.00 petition fee.

BACKGROUND

On 29 September 2004, applicant filed international application PCT/IB04/03170, which claimed priority of an earlier application filed 30 September 2003. A copy of the published international application was communicated from the International Bureau (IB) on 14 April 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 30 March 2006.

On 16 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); an executed declaration and a preliminary amendment.

On 08 January 2007, applicant filed the present petition to add Lin Zhibin as an inventor to the present application.

DISCUSSION

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

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

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

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

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

Applicant satisfied items 1, 3 and 4 listed above.

Regarding item (2), the filed declarations do not comply with 37 CFR .1497(a). Specifically, the declarations filed on 08 January 2007 and executed by inventors Lagrange, Georgeaux and Sato do not list the added inventor, Lin Zhibin. 37 CFR 1.497(a)(3) requires that the filed declaration list all inventors. In addition, the declaration executed by inventors Splett, Kroner, Merz and Korte, in addition to not listing the added inventor Lin Zhibin, contains four page twos rendering it non-compliant. As explained in MPEP section 201.03:

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.

Lastly, some of the filed declarations, as well as, the published international application identify the 12 listed inventor as Lin Haiqing whereas the declaration executed by this inventor lists the inventor as Lan Haiqing. An explanation from counsel is required as to this inconsistency. MPEP section 605.04 states:

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

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

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0 3 AUG 2007

John R. Lastova
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of	:	
OSTERLING, et al.	:	DECISION ON RENEWED
Application No.: 10/572,367	:	
PCT No.: PCT/IB04/03170	:	PETITION UNDER
Int. Filing Date: 29 September 2004	:	
Priority Date: 30 September 2003	:	37 CFR 1.497(d) AND
Atty. Docket No.: 2380-975	:	
For: INTERFACE, APPARATUS, AND METHOD FOR COMMUNICATION BETWEEN A RADIO EQUIPMENT CONTROL NODE AND A REMOTE EQUIPMENT NODE IN A RADIO BASE STATION	:	REQUEST FOR STATUS UNDER 37 CFR 1.42

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed 25 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 February 2007, 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 25 May 2007, applicant responded with the present renewed petition accompanied by a petition for a two-month extension of time and payment of the appropriate extension of time fee. Therefore, applicant's renewed petition is considered timely filed.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.497(d)

As detailed in the decision mailed 01 February 2007, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

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

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

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

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

Applicant previously satisfied items (1)-(3). Applicant has presently satisfied the remaining item in the form of an executed declaration which complies with 37 CFR 1.497(a)-(b).

II. Request For Status Under 37 CFR 1.42

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

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

The declaration submitted on 25 May 2007 was executed by Rolf Kramer as legal representative of the estate of deceased inventor, Werner Korte. The declaration provides the citizenship for both the deceased inventor and the signing legal representatives per 37 CFR 1.497(a)(3). As such, it is proper to grant applicant's request for status pursuant to 37 CFR 1.42.

CONCLUSION

For the reasons discussed above, the renewed request under 37 CFR 1.497(d) and request for status under 37 CFR 1.42 are **GRANTED**.

This application has an international application filing date of 29 September 2004 and will be given a date of **25 May 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

9-25-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,296,985
Inventor(s) : Willfried Koehler
Issued : November 20, 2007
For: DEVICE FOR GRANULATING THERMOPLASTIC MATERIALS

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

On the title page, item [87], the change cannot be made because it is printed in accordance with the record. What you are asking for is not in the patent.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Birch, Stewart, Kolasch &
Birch
P.O. Box 747
Falls Church, VA 22040-0747

ej

03 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Chad Buckley
2660 Augusta Drive #F115
Houston, TX 77057

In re Application of :
BUCKLEY *et al* :
U.S. Application No.: 10/572,405 :
PCT No.: PCT/US03/06455 :
Int. Filing Date: 04 March 2003 : **DECISION**
Priority Date: 04 March 2002 :
Attorney's Docket No.: None :
For: IMPROVED POLYVINYL ALCOHOL FILM AND METHOD OF PRODUCING SAME :

This decision is in response to the petition to revive under 37 CFR 1.137(b) filed 16 March 2006 which is **DISMISSED** without prejudice.

.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). Items (2), (3) and (4) of 37 CFR 1.137(b) are satisfied.

Applicants submitted the petition fee for a small entity of $750.00. Applicants' statement in the petition meets the requirement of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. However, applicants failed to provide the proper reply which requires payment of the Basic National Fee. *See* 37 CFR 1.495(b)(2). Hence, item (1) of 37 CFR 1.137(b) is not yet complete.

The application remains **ABANDONED**.

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

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

Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

19 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Chad Buckley
2660 Augusta Drive #F115
Houston, TX 77057

In re Application of :
BUCKLEY *et al* :
U.S. Application No.: 10/572,405 :
PCT No.: PCT/US03/06455 :
Int. Filing Date: 04 March 2003 : **DECISION**
Priority Date: 04 March 2002 :
Attorney's Docket No.: None :
For: IMPROVED POLYVINYL ALCOHOL :
FILM AND METHOD OF PRODUCING :
SAME :

This decision is in response to the papers submitted on 30 June 2006 which are treated as a renewed petition to revive under 37 CFR 1.137(b).

Applicant's original petition to revive under 37 CFR 1.137(b) filed 16 March 2006 was dismissed in a decision dated 03 May 2006 because applicant failed to provide the Basic National Fee.

In the response filed 30 June 2006, applicant has submitted funds to pay the Basic National Fee. All items of 37 CFR 1.137(b) are now complete.

Applicant's renewed petition under 37 CFR 1.137(b) is **GRANTED**.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 1 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Chad Buckley
2660 Augusta Drive #F115
Houston, TX 77057

In re Application of :
BUCKLEY *et al* :
U.S. Application No.: 10/572,405 :
PCT No.: PCT/US03/06455 :
Int. Filing Date: 04 March 2003 : **DECISION**
Priority Date: 04 March 2002 :
Attorney's Docket No.: None :
For: IMPROVED POLYVINYL ALCOHOL :
FILM AND METHOD OF PRODUCING :
SAME :

This decision is in response to the petition to revive under 37 CFR 1.137(b) filed on 18 May 2007 which is **DISMISSED** as follows:

The subject application was abandoned for failing to timely provide a declaration in compliance with 37 CFR 1.497(a) and (b).

A petition to revive an application on the grounds of unintentional delay pursuant to 37 CFR 1.137(b) must be accompanied by: (1) a proper reply; (2) the requisite 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) any required terminal disclaimer.

In the petition, applicants provided an acceptable declaration. Applicants also made the required 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. No terminal disclaimer is required. However, applicants failed to submit the requisite $750.00 petition fee.

As such, all items of 37 CFR 1.137(b) are incomplete.

The application remains **ABANDONED**.

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

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

Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 MAY 2007

Legal Staff
International Division

THE OFFICE OF CHAD BUCKLEY

5124 Blue Creek Drive
Kingwood, Texas 77345
US
Phone: 713.248.2002
Fax: 281.360.8366

Send to/An/Pour: Barbara Campabell	From/Von/De: Chad Buckley
Fax number/Fax nr./N° de fax: 571.270.9841	Phone number/Telefon/N° de tél.: 703.308.9140 ext 217

☐ Urgent/ Dringend/ Urgent

☐ Reply ASAP/ Rückantwort/ Réponse urgente

☐ Please comment/ Erledigung/ Commentaires attendus

☐ Please review/ Überprüfung/ A vérifier

☐ For your information/ Kenntnisnahme/ Copie pour information

Total pages, including cover sheet:
Anzahi der übermittelten Seiten inkl. Deckblatt
Nombre de pages (Page de garde incluse)

Comments/Anmerkungen/Commentaires

Oath and Declaration

Spartan Polymers, Inc.
Innovation and Experience

International Patent Number PCT/US03-06455
Filing Date: 3/4/2003

Inventors: Chad Buckley
5124 Blue Creek Drive
Kingwood, Texas 77345

Brian Schuette
432 Maple Drive
Winnetka, IL 60093

Date: February 26, 2007

Subject: Petition to Reactive Patent.

During the coarse of fill the US Patent, our patent was unintentionally abandoned by our Attorney who no longer represents we the inventors. Since then we have petition to reactive the patent process and were granted our request upon declaration and fee payment. In the final steps for this process we unknowing left out our citizenship in the Oath that we have to declare. This was found out after our allotted time. Since we, the inventors, are unfamiliar with the process we have made some mistakes along the way. We would like to take into consideration our petition.

Best Regrads,

Chad Buckley Brian Schuette

Chad Buckley

Brian Schuette

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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)

First named inventor: Chad Buckley

Application No.: US 10/572,405 Art Unit:

Filed: 03/04/2003 Examiner: Barbara Campbell

Title: PVOH Water Soluble Films and Method for Producing the Same

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 $. (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 (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 9/5/2006
☐ 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.

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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.

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.

Signature — 5/18/2007 Date

Typed or printed name — Registration Number, if applicable

Chad Buckley

Address — Telephone Number

5124 Blue Creek Drive, Kingwood, TX 77345

Address

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

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

I hereby certify that this correspondence is being:

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

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

Date — Signature

Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

09 AUG 2007

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P.O. Box 1450
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www.uspto.gov

Chad Buckley
2660 Augusta Drive #F115
Houston, TX 77057

In re Application of :
BUCKLEY *et al* :
U.S. Application No.: 10/572,405 :
PCT No.: PCT/US03/06455 :
Int. Filing Date: 04 March 2003 : **DECISION**
Priority Date: 04 March 2002 :
Attorney's Docket No.: None :
For: IMPROVED POLYVINYL ALCOHOL :
FILM AND METHOD OF PRODUCING :
SAME :

This decision is in response to the petition to revive under 37 CFR 1.137(b) filed on 02 August 2007 which is hereby **GRANTED** as follows:

A petition to revive an application on the grounds of unintentional delay pursuant to 37 CFR 1.137(b) must be accompanied by: (1) a proper reply; (2) the requisite 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) any required terminal disclaimer.

Items (1), (3) and (4) were completed in the petition filed 18 May 2007. However, the petition fee was not submitted.

In the petition filed 02 August 2007, applicants provided the required petition fee.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 March 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS
(6TH AVENUE)
NEW YORK NY 10036-2714

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of :

Rueben Hoppenstein, et al. :
Application No. 10/572,411 : DECISION ON PETITION
Filed: March 16, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. HOP07.019 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 16, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 does not include a copy of applicant's birth certificate, passport or a declaration statement signed by applicant Reuben Hoppenstein.

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 FAX: (571) 273-8300

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

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

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

Docket No.: H7885.0018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Reuben Hoppenstein et al.

Application No.: Not Yet Assigned | Confirmation No.: N/A

Filed: Concurrently Herewith | Art Unit: N/A

For: IMPROVED VEHICLE CHASSIS | Examiner: Not Yet Assigned

PETITION TO MAKE SPECIAL
UNDER 37 CFR § 1.102(c)

Hi April
Petition filing date should be 3/26/06.
Thanks
Dwyk.
12/29/06

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special the above-identified patent application. The basis of this Petition is the age or health of the Applicant.

In support of this Petition, Applicant submits the Declaration of Reuben Hoppenstein referring to:

1. Reuben Hoppenstein is an inventor of the above-captioned application.

2. Reuben Hoppenstein was born on December 10, 1933.

3. Reuben Hoppenstein is 72 years old.

Accordingly, Applicant requests that this Petition to Make Special be granted and the application undergo accelerated examination.

Under 37 CFR 1.102(c), no fee is required. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2215, under Order No. H7885.0018.

Dated: 3/16/2006

Respectfully submitted,

By _____
Ian R. Blum
Registration No.: 42,336
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 835-1400
Attorney for Applicants

IRB/mgs

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH D. NOWAK
CARTER LEDYARD & MILBULN, LLP
2 WALL STREET
NEW YORK, NY 10005

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Rueben Hoppenstein, et al. :
Application No. 10/572,411 : DECISION ON PETITION
Filed: March 16, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. HOP07.019 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 22, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Rueben Hoppenstein. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being referred back to the Office of Initial Patent Examination to process the reply to the Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (Notice). This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

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

06 MAR 2008

Keith D. Nwak
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 Avenue pf the Americas
41st Floor
New York, New York 10036-2714

In re Application of	:	DECISION ON
Hoppenstein et al	:	
Application No.: 10/572,411	:	
International App. No.: PCT/US2005/040349	:	
Int. Filing Date: 08 November 2005	:	REQUEST UNDER
Priority Date: 16 March 2005	:	
Attorney's Docket No.: H7885.00.18	:	
For: IMPROVED VEHICLE CHASSIS	:	37 CFR 1.497(d)

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE AND PETITION UNDER 37 CFR 1.497(d) TO CORRECT INVENTORSHIP" filed on 04 October 2007, naming additional inventor, Reuben Hoppenstein, in the executed declaration. The $130.00 processing fee has been charged to Deposit Account No. 50-2499.

BACKGROUND

On 08 November 2005, applicants filed international application No. PCT/US2005/04039 and claiming a priority date of 16 March 2005.

On 16 March 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 was filed at such time.

On 16 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date in that the declaration not signed by inventor (Day, Robin). The notice also indicated that the items set forth above must be submitted within two (2) 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 04 October 2007, applicants filed a an executed declaration which included an additional inventor, and a request for correction of inventorship under 1.497(d) to add Rueben Hoppenstein to the declaration.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

> (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (2) the fee set forth in § 1.17(I); and
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (2) under 37 CFR 1.497(d) but not requirement (3).

With respect to item (1), the statement submitted 04 October 2007 by Rueben Hoppenstein is sufficient because the statement states that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has been charged to the Deposit Account.

With respect to item (3), applicants did not submit the latest copy of the executed assignment to the assignee in the file, which was recorded on 04/06/2006 instead applicants submitted the assignment filed on 03/30/2006, which appears to improper. To establish the right of the Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. The proper reply is either a proper request under 37 CFR 1.497(d) overcoming the above stated defects. The failure to provide the proper reply will result in Abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

27 JUN 2008

COMMISSIONER FOR PATENTS
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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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KEITH D. NOWAK
CARTER LEDYARD & MILBURN LLP
2 WALL STREET
NEW YORK NY 10005

In re Application of	:	DECISION ON
Hoppenstein et al	:	
Application No.: 10/572,411	:	
International App. No.: PCT/US2005/040349	:	
Int. Filing Date: 08 November 2005	:	REQUEST UNDER
Priority Date: 16 March 2005	:	
Attorney's Docket No.: H7885.00.18	:	
For: IMPROVED VEHICLE CHASSIS	:	37 CFR 1.497(d)

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d) TO CORRECT INVENTORSHIP" filed on 10 June 2008.

BACKGROUND

In a decision from this Office mailed on 06 March 2008, the decision indicated that the request was dismissed because the request did not satisfy item (3) of 37 CFR 1.497(d). In addition, that decision was mailed to the prior address so applicants did not received the decision on a timely basis.

On 10 June 2008, applicants filed the current communication, which states that the latest copy of the assignment had been submitted with the October 4, 2007 filing.

DISCUSSION

A review of the renewed request reveals that applicant had satisfied item (3) of 37 CFR 1.497(d). In regard to item (3), the assignee, COCKY COACH LLC, of the above application did provide the proper paper (Statement Under 37 CFR 3.73(b)) on 04 October 2007 and has establish its right to take action under 37 CFR §3.73(b).

Accordingly, applicants are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) 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 **04 October 2007**.

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
www.uspto.gov

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

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Kobayahi et al. :
Application No. 10/572,458 : DECISION ON PETITION
Filed: November 17, 2006 :
Attorney Docket No. 04329.3819 :

This is a decision on the renewed petition, filed January 8, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

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

Petitioner asserts that the Notice of Allowance and Notice of Allowability dated August 1, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Notice of Allowance and Notice of Allowability was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence ddress of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Notice of Allowability was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Notice of Allowance and Notice of Allowability would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such,

as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2166 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of August 1, 2008. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Charlema Grant
Petitions Attorney
Office of Petitions

13 MAR 2009

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

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

In re Application of :
Wakita et al. :
Application No. 10/572,476 :
Int. App. No.: PCT/JP2004/014003 :
Int. Filing Date: 16 September 2004 : DECISION
Priority Date: 19 September 2003 :
Atty. Docket No.: 1254-0310PUS1 :
For: Nucleic Acid And Gene Derived From :
Novel HCV Strain And Replicon- :
Replicating Cell Using Said Gene :

This is in response to the correspondence filed on 27 June 2007, 04 December 2008 and 26 January 2009. These submissions are being treated together as a petition under 37 CFR 1.181.

BACKGROUND

International application PCT/JP2004/014003 was filed on 16 September 2004, claimed an earlier priority date of 19 September 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 31 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 March 2006. Applicants filed, *inter alia*, a basic national fee on 17 March 2006.

On 02 May 2007, a Notification of Missing Requirements was mailed, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b), the surcharge under 37 CFR 1.492(h), and certain requirements regarding the sequence listing.

On 27 June 2007, applicants filed a response, including the surcharge and a request for relief based on a return postcard receipt.

On 28 October 2008, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to counsel, indicating a 35 U.S.C. 371(c)(1), (2) and (4) date of "07/10/2008." A Filing Receipt was mailed on the same date.

On 04 December 2008, a "Request For A Corrected Official Filing Receipt" was filed, requesting a change in "Filing Date" from 10 July 2008 to 17 March 2006.

On 26 January 2009, a "Request For Corrected Notification Of Acceptance" was filed.

DISCUSSION

Counsel requests correction of the filing receipt and Notice of Acceptance to reflect the alleged filing of a declaration on 17 March 2006. Petitioner states that "As evidence of

Applicant's previous submission of a Declaration in connection with the present application, Applicant encloses a copy of the Declaration and Power of Attorney, filed March 17, 2006, and a copy of the postcard indicating receipt of the Declaration by the U.S.P.T.O." Inspection of the furnished copy of the returned postcard receipt reveals that it is stamped as received by the USPTO on 17 March 2006, and that it itemizes (*inter alia*) an "Oath or Declaration (4 pages)." 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 that policy, the 4-page declaration filed on 27 June 2007 is being accepted as a copy of the declaration originally filed on 17 March 2006 and itemized on the return postcard receipt.

Inspection of the declaration received on 27 June 2007, which is being regarded as a copy of the declaration filed on 17 March 2006, reveals that it is acceptable for purposes of 37 CFR 1.497(a) and (b). The requirements of 35 U.S.C. 371(c)(1), (2) and (4) were satisfied as of the filing date of this declaration. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 28 October 2008 was defective, and it is hereby **VACATED**.

DECISION

The petition is **GRANTED**, to the extent noted herein.

This application will be returned to the Office of Patent Application Processing for the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) and a corrected filing receipt, both reflecting the 35 U.S.C. 371(c)(1), (2) and (4) date of **17 March 2006**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

23 FEB 2007

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of:
OOHASHI, Tsutomu, et al.
U.S. Application No.: 10/572,484
PCT No.: PCT/JP2004/013749
International Filing Date: 21 September 2004
Priority Date: 18 September 2003
Attorney's Docket No.: 2006_0393A
For: METHOD AND APPARATUS FOR ENVIRONMENTAL SETTING AND DATA FOR ENVIRONMENTAL SETTING

DECISION ON PAPERS SUBMITTED UNDER 37 CFR 1.42

This decision is issued in response to the 13 December 2006 submission of a declaration executed on behalf of deceased inventor Satoshi NAKAMURA by Susumu NAKAMURA and Michiko NAKAMURA, treated herein under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 17 March 2006, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee.

On 13 December 2006, applicants filed a declaration executed by the seven surviving inventors and on behalf of deceased inventor Satoshi NAKAMURA by Susumu NAKAMURA and Michiko NAKAMURA, identified as the deceased inventor's "legal representatives (or heirs)." This declaration is considered herein under 37 CFR 1.42 and 1.497.

DISCUSSION

Pursuant to 37 CFR § 1.42:

> "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."

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

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

> (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.

The declaration submitted on 13 December 2007 identifies the deceased inventor and states the inventor's country of citizenship, as required for compliance with 37 CFR 1.497(a)(3). The declaration also provides the names of the persons who signed the declaration on behalf of the deceased inventor, and it provides these persons country of citizenship, residence, and mailing address, as required by 37 CFR 1.497(b)(2). However, the declaration is not clear as to whether Susumu NAKAMURA and Michiko NAKAMURA are heirs of the deceased inventor or his legal representatives. Applicants must provide clarification as to the legal relationship between Susumu NAKAMURA and Michiko NAKAMURA and the deceased inventor. If they are heirs of the deceased inventor (rather than legal representatives), a statement must be provided confirming that Susumu NAKAMURA and Michiko NAKAMURA are all the heirs of the deceased inventor and that no legal representative of the deceased's estate has been appointed or is required to be appointed by applicable law.

Until a clarifying statement is provided confirming that Susumu NAKAMURA and Michiko NAKAMURA are either the legal representatives of the deceased inventor or his only heirs, the declaration cannot be accepted under 37 CFR 1.42.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Satoshi NAKAMURA is **DISMISSED** without prejudice.

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

A proper response must include an adequate statement and/or supporting documentation confirming that Susumu NAKAMURA and Michiko NAKAMURA are either the legal representatives of the deceased inventor, or that they are the only heirs of the deceased inventor and that no legal representative of the deceased's estate has been appointed or is required to be appointed by applicable law.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 JUL 2007

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

In re Application of	:	
OOHASHI, Tsutomu et al.	:	
Application No.: 10/572,484	:	DECISION
PCT No.: PCT/JP04/13749	:	
Int. Filing Date: 21 September 2004	:	ON RENEWED SUBMISSION
Priority Date: 18 September 2003	:	
Attorney's Docket No.: 2006_0393A	:	UNDER 37 CFR 1.42
For: Method And Apparatus For Environmental Setting And Data For Environmental Setting	:	

This decision is issued in response to applicants' "Response To Decision On Papers Submitted Under 37 CFR 1.42," filed 18 April 2007, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 21 September 2004, applicants filed international application PCT/JP04/13749, claiming a priority date of 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 March 2006.

On 17 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 13 December 2006, applicants filed a declaration of the inventors. The declaration was executed by the seven surviving inventors on behalf of deceased co-inventor Satoshi Nakamura by Susumu Nakamura and Michiko Nakamura as "legal representatives (or heirs)." The submission was treated as a request for status under 37 CFR 1.42.

On 23 February 2006, the Office mailed a "Decision On Papers Submitted Under 37 CFR 1.42" dismissing applicants' request for status without prejudice. Because the declaration was not clear as to whether Susumu Nakamura and Michiko Nakamura are heirs of deceased co-inventor Satoshi Nakamura or his legal representatives, the Decision concluded that the declaration filed 13 December 2006 did not comply with 37 CFR 1.497(a)-(b).

On 18 April 2007, applicants filed the instant request for status including, a declaration by Mr. Takanori Abe indicating that, under Japanese law, Susumu Nakamura and Michiko Nakamura are "heirs and legal representatives" of deceased co-inventor Satoshi Nakamura.

DISCUSSION

When an inventor has deceased, 37 CFR 1.42 permits the legal representative (executor, administrator, etc.) of the deceased inventor to execute the necessary oath or declaration and, apply for and obtain a patent.

With respect to the legal representative, MPEP 409.01(a) states that where no legal representative has been appointed or is required to be appointed by law, the application for a patent may also be made by all of the heirs of the deceased. Further, MPEP 409.01(a) states that the heirs need to identify themselves as legal representative of the deceased inventor.

37 CFR 1.497(b)(2) states:

> If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that (1) the person is a legal representative and the (2) citizenship, (3) residence and (4) mailing address of the legal representative.

A review of the declaration filed 13 December 2006 shows that Susumu Nakamura and Michiko Nakamura have executed the declaration as legal representatives and heirs for deceased co-inventor Satoshi Nakamura because the declaration of Mr. Takanori Abe specifically shows that, under Japanese law, Susumu Nakamura and Michiko Nakamura are "heirs and legal representatives" of deceased co-inventor Satoshi Nakamura. Hence, item (1) has been satisfied.

With regard to items (2)-(4), the residence, mailing address and citizenship of the persons signing on behalf of deceased co-inventor Satoshi Nakamura have been provided. Also provided is the citizenship of deceased co-inventor Satoshi Nakamura.

The declaration filed 13 December 2006 is deemed acceptable under 37 CFR 1.497 (a)-(b).

CONCLUSION

The request for status under 37 CFR 1.42 is **GRANTED.**

The declaration filed 13 December 2006 under 37 CFR 1.42 is **ACCEPTED**.

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

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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

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1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Norbert Anton Fechter	: DECISION ON REQUEST FOR
Patent Number	: 7574817	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,488	: OF WYETH
Filed	: 04/05/2006	:
		:

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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25 NOV 2008

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of
ISHIHARA et al.
Application No.: 10/572,493
PCT No.: PCT/JP04/14036
International Filing Date: 17 September 2004
Priority Date: 18 September 2003
Attorney Docket No.: 19650
For: OPTICAL DEVICE

DECISION ON RESPONSE

This is a decision on applicant's "Petition under 37 CFR 1.182" to correct International application number filed in the United States Patent and Trademark Office on 27 March 2008.

On 17 March 2006, applicant filed a request for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. The papers were assigned serial number 10/572,493. However the international application **PCT/JP04/14306** as indicated on the transmittal letter differs from the PCT application number **PCT/JP04/14036** on the international search report, which was filed with the initial request for national stage entry.

Applicant's petition under 37 CFR 1.182 to correct the international application no. to PCT/JP04/14036 on the national stage papers filed on 27 March 2008 is GRANTED. The $400 petition fee will be charged to applicant's deposit account per his authorization.

The Notification of Acceptance and the filing receipt mailed on 20 July 2007 are hereby **VACATED.**

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing. The USPTO records will identify the present application 10/572,493 as a national stage of **PCT/JP04/14036**.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

MAR 22 2010

OFFICE OF PETITIONS

LORUSSO & ASSOCIATES
P.O. BOX 21915
PORTSMOUTH, NH 03801

In re Application of :
Matteo Zoppas et al :
Application No. 10/572,531 : ON PETITION
Filed: March 17, 2006 :
Attorney Docket No. NBG111 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2010, to revive the above-identified application.

The petition is **GRANTED.**

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

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

This matter is being referred to Technology Center AU 1791 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES CA 90025

MAILED

JAN 22 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kibatsu Shinohara :
Application No. 10/572,532 :
Filed: March 17, 2006 :
Attorney Docket No. 96790P527 :

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

The petition is **GRANTED**.

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

The instant petition includes statements by the applicant's attorney and the applicant stating that the applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2817 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

24 AUG 2007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
KO et al.
Serial No.: 10/572,563
PCT No.: PCT/CN04/01044
Int. Filing Date: 14 September 2004
Priority Date: 17 September 2003
Atty Docket No.: 8964-000031/US
For: A FUNGAL IMMUNOMODULATORY PROTEIN PRODUCED BY MICROORGANISMS AND USES THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(a) " filed 02 April 2007 to accept the application without the signatures of joint inventors, HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN. Applicant also requests a five month extension of time, which is granted.

BACKGROUND

On 17 March 2006, applicant filed a request for entry into the U.S. national stage, along with the basic national fee.

On 01 September 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), is required.

On 02 April 2007, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

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.

Items (1), (3) and (4) above are satisfied.

Regarding item (2)[1] above, Petitioner contends that HSU-WEI HUNG, HO-LUNG

[1] 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

JIANG, CHING-LING HU AND CHENG-CHUN KUAN have refused to sign the application.

Specifically, applicant submitted the declaration of Tzu-Chih Chen, who states that a copy of the application along with declaration and assignment were mailed to the nonsigning inventors at their last known address. Chen's declaration does not appear to be a statement of first hand knowledge and there is no indication of his knowledge or position established in the declaration. Moreover, although Enclosure 1 is referenced in the declaration, it is not found among the papers submitted.

The joint declaration of David Ko and Jash Lin was also submitted in support of the 37 CFR 1.47(a) petition. The declaration indicates that "a copy of both the Declaration and Assignment documents...and the patent disclosure were forwarded to each of the named inventors at their last known mailing address." According to their declaration, the letter advised the inventors that they could verify the scope and accuracy of the disclosure by referencing the international application using the World Intellectual Property Organization website. It is not clear that the nonsigning inventors received a complete copy of the application papers, as required. See MPEP 409.03(d) set forth in Footnote 1.

Declarant Lin states that when he contacted them, inventors Hung, Jiang and Kuan refused to sign the declaration. However, the details of their refusal are not set forth in the declaration and the accompanying documents are not translated into English. As for inventor Hu, Lin indicates that he was unable to contact Hu, without providing details of his attempts.

Moreover, the attachments referenced in their declaration (alleged mail receipt and phone record) are in the Chinese language. A translation into English of all evidence relied upon must be submitted, in order to be considered.

In sum, the declaration merely indicates "the patent document"; this does not make clear "which" document was enclosed and does not confirm that a complete copy of the application was provided to the inventors. The documentary evidence does not support the declarants'

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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.

statement that they sent a complete copy of the application to the inventor. Petitioner must provide the nonsigning inventor a complete copy of the application papers before a petition under 37 CFR 1.47(a) can be granted.

It is unclear whether the nonsigning inventors received the papers and whether the papers did in fact contain a complete copy of the application including an oath or declaration for execution. The declarations provided cannot be relied upon to fulfill the requirements of 37 CFR 1.47(a) and granting of the petition. In cases where it is argued that the non-action of an inventor should be considered a refusal to cooperate it is especially important to provide proof of delivery of the papers, as well as, a firsthand statement of the preparation and mailing of the 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 papers *for this application* (specification, claims, drawings and oath/declaration) were sent to Hung, Jiang, Kuan and Hu, 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. All documentary evidence should be translated into English. *See* MPEP 409.03(d) for further clarification.

Applicant has not presented sufficient evidence to show that (1) Messrs. Hung, Jiang, Hu and Kuan were presented with and received a complete copy of the application papers including a declaration and (2) they refuse to sign the application papers. In light of the above, Item (2) above is not yet satisfied and thus, it is inappropriate to grant applicant's petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

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.

Cynthia M. Kratz
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3286
Fax: (571) 273-0459

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28 APR 2008

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
KO et al.
Serial No.: 10/572,563
PCT No.: PCT/CN04/01044
Int. Filing Date: 14 September 2004
Priority Date: 17 September 2003
Atty Docket No.: 8964-000031/US
For: A FUNGAL IMMUNOMODULATORY PROTEIN PRODUCED BY MICROORGANISMS AND USES THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(a) " filed 02 April 2007 to accept the application without the signatures of joint inventors, HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 02 April 2007, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

On 24 August 2007, a decision dismissing the petition was mailed to applicant.

On 22 February 2008, a renewed petition was 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.

Items (1) and (3) above were previously satisfied.

Regarding item (2) above, Petitioner contends that HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN have refused to sign the application.

Specifically, applicant submitted the declaration of Tzu-Chih Chen, who states that a copy of the application along with declaration and assignment was mailed to the nonsigning inventors at their last known address.

The declaration of David Ko was also submitted in support of the 37 CFR 1.47(a) petition. The declaration indicates that "On Dec. 3, 2007, I sent the patent specification including claims along with formal documents to each of the nonsigning inventors at their last known mailing address." (¶ 7). Ko's declaration further indicates that declaration documents from Ho-Lung Jiang were received.

Declarant Ko states that when he contacted them, inventors Hung, Kuan and Hu refused to sign the declaration. The details of their refusal are set forth in an accompanying telephone "Phone Record" which included the date and time of the telephone contact and the non-signing inventors' refusal.

Applicant has now presented sufficient evidence to show that (1) Messrs. Hung, Hu and Kuan were presented with and received a complete copy of the application papers including a declaration and (2) they refuse to sign the application papers. In light of the above, Item (2) above is now satisfied.

However, with regard to Item (4) and inventor HO-LUNG JIANG's incomplete declaration, Petitioner presented only the signatory sheet (Page 7) with inventor's Jiang's signature upon it. This declaration is not properly executed. It appears that the inventor was presented with an incomplete declaration. While it is acceptable for an applicant to execute a separate copy 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. It is appropriate to grant applicant's petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

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.

Cynthia M. Kratz
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3286
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 8 JUL 2008

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
KO et al. :
Serial No.: 10/572,563 :
PCT No.: PCT/CN04/01044 :
Int. Filing Date: 14 September 2004 :
Priority Date: 17 September 2003 :
Atty Docket No.: 8964-000031/US :
For: A FUNGAL IMMUNOMODULATORY PROTEIN PRODUCED BY MICROORGANISMS AND USES THEREOF :

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.47(a) " filed 09 May 2008 to accept the application without the signatures of joint inventors, HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

BACKGROUND

On 02 April 2007, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors HSU-WEI HUNG, HO-LUNG JIANG, CHING-LING HU AND CHENG-CHUN KUAN.

On 24 August 2007, a decision dismissing the petition was mailed to applicant.

On 22 February 2008, a renewed petition was filed. On 28 April 2008, a decision dismissing the petition was mailed indicating that a complete copy of the declaration executed by previously non-signing inventor HO-LUNG JIANG was required.

On 09 May 2008, Petitioner submitted, *inter alia*, a complete declaration executed by previously non-signing inventor HO-LUNG JIANG.

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.

Items (1), (2) and (3) above were previously satisfied.

Petitioner previously presented sufficient evidence to show that Messrs. Hung, Hu and

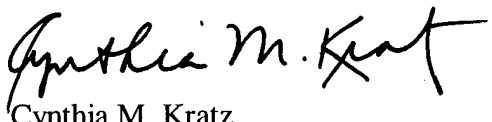
Kuan were presented with and received a complete copy of the application papers including a declaration and that they refuse to sign the application papers. With the submission of the complete declaration of inventor Jiang, the requirements of 37 CFR 1.47(a)are satisfied. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 02 April 2007 and 09 May 2008. The application has an international filing date of 14 September 2004 under 35 U.S.C. 363, and a date of 09 May 2008 under 35 U.S.C. 371(c).

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



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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0 8 JUL 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HSU-WEI HUNG
15F.
NO. 18, ALLEY 9, LANE 297
YUANTONG RD.
JHONGHE CITY, TAIPEI COUNTY 235
TAIWAN, R.O.C.

In re Application of :
KO et al. : DECISION ON PETITION
Serial No.: 10/572,563 :
PCT No.: PCT/CN04/01044 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 14 September 2004 :
Priority Date: 17 September 2003 :
Atty Docket No.: 8964-000031/US :
For: A FUNGAL IMMUNOMODULATORY :
PROTEIN PRODUCED BY MICROORGANISMS
AND USES THEREOF :

Dear Mr. Hung:

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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Alexandria, VA 22313-1450
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0 8 JUL 2008

CHENG-CHUN KUAN
4F., NO.24-11, LANE 134, SEC.3
SINYI RD.
DA-AN DISTRICT
TAIPEI CITY 106, TAIWAN R.O.C.

In re Application of :
KO et al. :
Serial No.: 10/572,563 :
PCT No.: PCT/CN04/01044 :
Int. Filing Date: 14 September 2004 :
Priority Date: 17 September 2003 :
Atty Docket No.: 8964-000031/US :
For: A FUNGAL IMMUROMODULATORY PROTEIN PRODUCED BY MICROORGANISMS AND USES THEREOF :

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

Dear Mr. Kuan:

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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0 8 JUL 2008

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CHING-LUNG HU
3F, NO.4 ALLEY 12
LANE 79, SEC 2,
SINYI RD.
JHONGIHENG DISTRICT
TAIPEI CITY 100
TAIWAN, R.O.C.

In re Application of :
KO et al. : DECISION ON PETITION
Serial No.: 10/572,563 :
PCT No.: PCT/CN04/01044 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 14 September 2004 :
Priority Date: 17 September 2003 :
Atty Docket No.: 8964-000031/US :
For: A FUNGAL IMMUNOMODULATORY :
PROTEIN PRODUCED BY MICROORGANISMS
AND USES THEREOF :

Dear Mr. Hu:

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

Mail Date: 04/20/2010

Applicant	: Atsushi Naganawa	: DECISION ON REQUEST FOR
Patent Number	: 7601712	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,578	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **381** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 OCT 2006

Steven I. Weisburd
Dickstein Shapiro, LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

In re Application of :
HIMI, et al. :
Application No.: 10/572,587 :
PCT No.: PCT/JP04/14053 : DECISION ON PETITION
Int. Filing Date: 27 September 2004 :
Priority Date: 30 September 2003 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: M1071.1963 :
For: DIELECTRIC RESONATOR DEVICE, :
OSCILLATOR, AND TRANSMITTER- :
RECEIVER APPARATUS :

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 27 September 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.

10/31/2006 SBASHEIR 00000001 502215 10572587
01 FC:1617 130.00 DA

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

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HOLLAND & HART, LLP
P.O. BOX 8749
DENVER, CO 80201

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In re Application of :
Robert James Kelly et al. :
Application No. 10/572,593 : DECISION ON PETITION
Filed: August 14, 2007 : TO WITHDRAW
Attorney Docket No. 58269.830007.USO : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 10, 2009.

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

A review of the file record indicates that the power of attorney to Holland & Hart, LLP and all attorneys/agents associated with customer number 21586 have been revoked by the assignee of the patent application on December 15, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON, TX 77002-6760

02 MAY 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NIXON PEABODY LLP
401 9TH Street, N.W.
Suite 900
Washington, D.C. 20004-2128

In re Application of	:	DECISION ON
UCHIUMI et al	:	
Application No.: 10/572,601	:	
PCT No.: PCT/JP04/11758	:	
Int. Filing Date: 17 August 2004	:	PETITION UNDER
Priority Date: 09 September 2003	:	
Attorney's Docket No.: 740675-66	:	
For: VIBRATION GENERATING MOTOR	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 06 April 2006.

BACKGROUND

On 17 August 2004, this international application was filed, claiming an earliest priority date of 09 September 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 09 March 2006. This international application became abandoned with respect to the United States at midnight on 09 March 2006 for failure to pay the required basic national fee.

On 20 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**.

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

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Lionel Guiraud	:	
Application No. 10/572612	:	ON PETITION
Filing or 371(c) Date 03/17/2006	:	
Attorney Docket Number: FR 030104	:	

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 April 24, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed January 18, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on April 19, 2007. A Notice of Abandonment was mailed May 8, 2007.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW
ATLANTA GA 30309-3488

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DEC 26 2007

OFFICE OF PETITIONS

In re Application of :

STEFFEN, Stephan :
Application No. 10/572,629 : DECISION ON PETITION
Filed: December 07, 2006 : TO WITHDRAW
Attorney Docket No. **148809.00500** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2007.

The request is **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 Charles Warner on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEPHAN STEFFEN**
BUXTORFFSTRABE 17
BREMEN, GERMANY 28213

cc: **LAURENCE P. COLTON**
SMITH GAMBRELL & RUSSELL
1230 PEACHTREE STREET, NW
PROMENADE II, SUITE 3100
ATLANTA, GA 30309

26 APR 2007

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS 6TH AVENUE
NEW YORK, NY 10036-2714

In re Application of	:	
KLUG, Franz et al.	:	
Application No.: 10/572,656	:	
Filing Date: 20 March 2006	:	DECISION
Attorney Docket No.: E0196.0100	:	
For: METHOD AND DEVICE FOR PROTECTED TRANSMISSION OF DATA	:	

This decision is in response to applicants' petition to convert, filed in the United States Patent and Trademark Office on 18 April 2006

BACKGROUND

On 20 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the search fee, examination fee and an application data sheet. The papers were assigned serial number 10/572,656.

On 18 April 2006, applicants submitted the instant petition to convert the application from a filing under 35 USC 371 to a filing under 35 USC 111. The submission included a copy of the specification and a second transmittal letter. The submission was assigned serial number 11/405,500.

On 14 July 2006, applicants filed a petition to correct the filing date in 11/405,500 in response to a Notice to File Missing Parts issued by the Office of Initial Patent Examination.

DISCUSSION

The transmittal letter (Form PTO-1390) filed on 20 March 2006, identified the application as "a filing under 35 U.S.C. 371." However, a review of the submission does not provide an international application of which the 20 March 2006 submission could be a national stage. Applicants' application will be processed under 35 U.S.C. §111, as requested. Additionally, the second application file was created in error. The papers from 11/405,500 will be transferred to 10/572,656. All future correspondence with regard to this application should use the 10/572,656 serial number.

CONCLUSION

For the above reasons, the petition to convert the national stage filing into a filing under 35 U.S.C. §111 is **GRANTED**.

This application is accepted as an application filed under 35 U.S.C. §111(a) with a filing date of 20 March 2006.

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 Initial Patent Examination for processing as a national application filed under 35 U.S.C. §111(a) with a filing date of **20 March 2006**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (08-08)
Approved for use through 09/30/2008. 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 contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	10/572,672	Confirmation Number	5085	Filing Date	
Attorney Docket Number (optional)	RXPT-080505.015	Art Unit	3711	Examiner	Stephen Blau
First Named Inventor	Lanny Johnson				
Title of Invention	MINI-FACE BLADE PUTTER				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Lanny	Leo	Johnson	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/David Dawsey/	Date (YYYY-MM-DD)	2008-09-23
Name	David J. Dawsey	Registration Number	51044

PTO/SB/130 (08-08)
Approved for use through 09/30/2008. 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 contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

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 indivi duals.

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 inspections 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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In re Application of
Lanny L. Johnson

Application No. 10572672

Filed:

Attorney Docket No. JOHNSON 4,2-1

:
:
: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 23-SEP-2008 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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23 MAY 2007

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

In re Application of SUMIYA et al :
U.S. Application No.: 10/572,708 :
PCT Application No.: PCT/JP2004/014910 : DECISION
Int. Filing Date: 08 October 2004 :
Priority Date Claimed: 10 October 2003 :
Attorney Docket No.: 4940/PCT :
For: DIAMOND TOOL, SYNTHETIC SINGLE CRYSTAL DIAMOND. . . :

This is in response to applicant's "Request for Corrected Notice of Acceptance of Application" filed 16 May 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 08 October 2004, applicant filed international application PCT/JP2004/014910, which claimed priority of an earlier Japan application filed 10 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 10 April 2006.

On 17 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 07 November 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 16 May 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notice of Acceptance contained the following three errors: (1) an incorrect date of completion of all 35 U.S.C. 371 requirements, (2) a failure to indicate receipt of applicant's request for immediate examination, and (3) a failure to indicate receipt of an English translation of annexes (Article 19 amendments).

A review of the application file reveals that the Notice of Acceptance contained erroneous information with regard to items (1) and (2) above. With respect to item (3), the application file contains a translation of the claims filed with the international application and contains a listing of claims as part of a preliminary amendment to a purported translation of the Article 19 amendments. However, the purported translation of the Article 19 amendments is not present. Pursuant to 35 U.S.C. 371(d) and MPEP 1893.01(a)(2), because an English translation of the Article 19 amendments has not been received by the date of commencement of the national stage, the amendments are considered canceled.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED IN PART.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 07 November 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903). The corrected Form PCT/DO/EO/903 should indicate: (1) a date of completion of all 35 U.S.C. 371 requirements of 17 March 2006 and (2) receipt of applicant's express request to begin national examination procedures under 35 U.S.C. 371(f).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

29 MAY 2007

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

In re Application of SUMIYA et al	:	
U.S. Application No.: 10/572,708	:	
PCT Application No.: PCT/JP2004/014910	:	DECISION
Int. Filing Date: 08 October 2004	:	
Priority Date Claimed: 10 October 2003	:	
Attorney Docket No.: 4940/PCT	:	
For: DIAMOND TOOL, SYNTHETIC SINGLE CRYSTAL DIAMOND. . .	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 08 October 2004, applicant filed international application PCT/JP2004/014910, which claimed priority of an earlier Japan application filed 10 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 10 April 2006.

On 17 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 07 November 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 16 May 2007, applicant filed a present petition under 37 CFR 1.181.

On 23 May 2007, this Office mailed a decision dismissing in part the 16 May 2007 petition.

DISCUSSION

The petition states that the Notice of Acceptance contained the following three errors: (1) an incorrect date of completion of all 35 U.S.C. 371 requirements, (2) a failure to indicate receipt of applicant's request for immediate examination, and (3) a failure to indicate receipt of an English translation of annexes (Article 19 amendments).

A review of the application file reveals that the Notice of Acceptance contained erroneous information with regard to items (1), (2), and (3) above.

CONCLUSION

The decision mailed 23 May 2007 is hereby VACATED.

The petition under 37 CFR 1.181 is GRANTED.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 07 November 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903). The corrected Form PCT/DO/EO/903 should indicate: (1) a date of completion of all 35 U.S.C. 371 requirements of 17 March 2006, (2) receipt of applicant's express request to begin national examination procedures under 35 U.S.C. 371(f), and (3) receipt of a translation of the Annexes. Furthermore, corrected Form PCT/DO/EO/903 should not list any observed defects.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

08 MAY 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
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Robert C Shaddox
Winstead Sechrest & Minick
P O Box 50784
Dallas TX 75201

In re Application of	:	
WEISMAN, R. Bruce	:	
Application No.: 10/572,720	:	DECISION
PCT No.: PCT/US04/28603	:	
Int. Filing Date: 02 September 2004	:	ON PETITION UNDER
Priority Date: 05 September 2003	:	
Docket No.: 11321-P075WOUS	:	37 CFR 1.137(b)
For: FLUORESCENT SECURITY INKS AND MARKERS COMPRISING CARBON NANOTUBES	:	

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 21 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 has been paid. The balance of the petition fee will be charged to deposit account no. 23-2426, as authorized. 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. 23-2426, 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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GREER, BURNS & CRAIN
300 S. WACKER DR.
25TH FLOOR
CHICAGO, IL 60606

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In re Application of	:	
Dallas James	:	
Application No. 10/572,722	:	DECISION ON PETITION
Filed: November 6, 2006	:	
Attorney Docket No. 1209.74842	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on June 12, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on September 15, 2009. A Notice of Abandonment was mailed on October 5, 2009. Since the Notice of Allowability mail date fell on a Saturday, Monday June 14, 2009 was the next official business day. The applicant was given until September 14, 2009 to reply to the Notice.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

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 contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Michael John V. Moreton	: DECISION ON REQUEST FOR
Patent Number	: 7649911	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **612** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

Applicant: Picano et al.
Appl. No.: 10/572,751
Filing Date: September 11, 2004
Title: SKIN AND HAIR CARE PREPARATION CONTAINING A COMBINATION OF PROTEIN HYDROLYZATES
Attorney Docket No.: P29493
Pub. No.: US 2007/0041925-A1
Pub. Date: February 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 9, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because the front page of the patent application publication contains an error, as the Assignee should be changed from "Beiersdorf AG, Hamburg (DE)" to "Juvena (International) AG, of Volketswil/Zuerich, Switzerland".

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 assignment information. The error 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.

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

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

On November 22, 2006, a Filing Receipt was mailed by the Office, which improperly listed the assignment information. To avoid this type of problem in the future, applicants' representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

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

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

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

By facsimile: 571-273-8300

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

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

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OFFICE OF PETITIONS

JENKINS, WILSON, TAYLOR & HUNT, P. A.
SUITE 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

In re Application of :

DESIMONE, Joseph M. et al. :
Application No. 10/572,764 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **421/117 PCT/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 11, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **W. MURRAY SPRUILL**
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

18 MAY 2006

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J.C. Patents
4 Venture, Suite 250
Irvine CA 92618

In re Application of	:	
PAN et al.	:	
Application No.: 10/572,769	:	DECISION ON
PCT No.: PCT/CN03/00790	:	
Int. Filing Date: 17 September 2003	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: LPTF10	:	37 CFR 1.137(b)
For: METHOD AND DEVICE OF MULTI-RESOLUTION VECTOR QUANTILIZATION FOR AUDIO ENCODING AND DECODING	:	

This decision is in response to applicants' submission filed 20 March 2006.

BACKGROUND

On 17 September 2003, applicants filed international application PCT/CN03/00790 which designated the U.S. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 March 2006.

On 20 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, 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 20 March 2006.

As to item (2), applicant submitted the petition fee on 20 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) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

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OFFICE OF PETITIONS

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of
Hans-Peter Miller, et al.
Application No. 10/572,786
Filed: March 21, 2006
Attorney Docket No. 3590

ON PETITION

This is a decision in response to the petition, filed July 23, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 29, 2008. A Notice of Abandonment was mailed on August 21, 2008. On July 23, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2834 for appropriate action by the Examiner in the normal course of business on the response filed July 23, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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06449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

In re Application of :
WILCKENS *et al* :
U.S. Application No.: 10/572,795 :
PCT No.: PCT/EP2004/010582 :
Int. Filing Date: 21 September 2004 : **DECISION**
Priority Date: 22 September 2003 :
Docket No.: 3724-101 :
For: PREVENTION AND TREATMENT OF :
INFLAMMATION-INDUCED AND/OR :
IMMUNE-MEDIATED BONE LOSS :

This is a decision on the request to add Ariane Volkmann as an inventor in the above-captioned application filed on 09 October 2008. This request is treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 14 April 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) stating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 09 October 2008, applicants filed a response which was accompanied by, *inter alia*, a request to add an inventor, a $130.00 processing fee, a four-month extension and fee, a statement by Ariane Volkmann, a written consent of the assignee along with copies of the assignment.

On 20 August 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned for failing to respond to the Form PCT/DO/EO/905 mailed 14 April 2008.

DISCUSSION

Applicants timely responded to the Form PCT/DO/EO/905 with the response filed 09 October 2008.

Accordingly, the Form PCT/DO/EO/909 mailed 20 August 2009 was sent in error, and is hereby **VACATED**.

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

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

Applicants filed the requisite statement by Mr. Volkmann. The processing fee of $130.00 has been paid. Applicants also submitted a consent of assignee signed by the CEO of Onepharm Research and Development GmbH who states that he has the authority to act on behalf of the assignee. A copy of the executed assignment was also provided. Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request to add an inventor under 37 CFR 1.497(d) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 September 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 09 October 2008.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Detlev Wittmer	: DECISION ON REQUEST FOR
Patent Number	: 7587953	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/572,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM NY 11727-0966

In re Application of	:	
CHING	:	
Application No.: 10/572,809	:	DECISION ON
PCT No.: PCT/GB04/03734	:	
Int. Filing Date: 02 September 2004	:	PETITION UNDER
Priority Date: 02 September 2003	:	
Attorney Docket No.: NONE	:	37 CFR 1.137(b)
For: ANTI-TAMPER DEVICE	:	

This decision is in response to applicants' submission filed 20 March 2006.

BACKGROUND

On 02 September 2004, applicants filed international application PCT/GB04/03734 which designated the U.S. and claimed a priority date of 02 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 02 March 2006.

On 20 March 2006, applicants filed a request 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 20 March 2006.

As to item (2), applicant submitted the petition fee on 20 March 2006.

As to item (3), petitioner's statement that the application was unintentionally abandoned has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

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

15 MAY 2008

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Shoemaker and Mattare, LTD
10 Post Office Road - Suite 110
Silver Spring, MD 20910

In re Application of :
NIELSEN, Ian Bradley :
U.S. Application No. 10/572,822 :
PCT No.: PCT/AU04/01282 :
Int. Filing Date: 21 September 2004 :
Priority Date: 22 September 2003 : DECISION ON PETITION
Attorney Docket No.: 5822 : (37 CFR 1.182)
For: METHOD AND APPARATUS FOR :
COLLECTING AND/OR SEPARATING
SOLIDS FROM LIQUIDS

This decision is issued in response to applicant's "Petition Under 37 CFR 1.182" filed 22 May 2007. Deposit Account No. 19-2110 will be charged the required $400 petition fee.

BACKGROUND

On 22 March 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States which identified the international application as PCT/AU04/28069. Accompanying the transmittal letter, applicant included: an authorization to charge the deposit account $450; a preliminary amendment; and an Application Data Sheet (ADS). All papers identified the international application as PCT/AU04/28069.

On 22 May 2007, applicant filed the "Petition Under 37 CFR 1.182" which seeks to correct the international application number on the national stage application papers filed 22 March 2006 so as to allow such materials to be treated as the U.S. national stage of PCT/AU04/01282.

DISCUSSION

A review of the international publication for PCT/AU04/01282 reveals that this is the international application corresponding to the application submitted here. However, the initial Transmittal Letter submitted by applicant misidentified the international application number as PCT/AU04/28069. Based on applicant's error, a national stage application file was created for PCT/AU04/28069, rather than for PCT/AU04/01282.

Copied from 11572822 on 05/22/2008

On 21 September 2004, applicant filed international application PCT/AU04/01282 which claimed a priority date of 22 September 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 31 March 2005. Pursuant to 37 CFR 1.495, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 22 March 2006.

Further review of the application papers originally filed on 22 March 2006 reveals that none of the originally filed papers identified PCT/AU04/01282. As such, none could be used to identify the correct international application. Therefore, the basic national fee could not have been associated with the correct international application PCT/AU04/01282 as of 22 March 2006, and thus, the application is **ABANDONED** for failure to timely pay the basic national fee.

In order to continue processing of the national stage application for PCT/AU04/01282, applicant must submit a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. Additionally, a Transmittal Letter (Form PTO-1390) which identifies the international application as PCT/AU04/01282 must be filed with the Petition to Revive.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

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

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
Facsimile: 571-273-0459

Copied from 11572822 on 05/22/2008

28 JUL 2008

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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Shoemaker and Mattare, LTD
10 Post Office Road - Suite 110
Silver Spring, MD 20910

In re Application of :
NIELSEN, Ian Bradley :
U.S. Application No. 10/572,822 :
PCT No.: PCT/AU04/01282 :
Int. Filing Date: 21 September 2004 :
Priority Date: 22 September 2003 : DECISION ON PETITION
Attorney Docket No.: 5822 :
For: METHOD AND APPARATUS FOR COLLECTING AND/OR SEPARATING SOLIDS FROM LIQUIDS :

The petition to revive under 37 CFR 1.137(b) filed 03 July 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 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

17 APR 2006

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Leonard R. Svensson
Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
FELDMANN, et al.	:	
U.S. Application No.: 10/572,827	:	DECISION ON PETITION
PCT No.: PCT/US03/25997	:	
Int. Filing Date: 18 August 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 18 August 2003	:	
Attorney Docket No.: 2750-1573PWO1	:	
For: NUCLEOTIDE SEQUENCES AND POLYPEP-	:	
TIDES ENCODED THEREBY USEFUL FOR	:	
INCREASING PLANT SIZE AND INCREASING	:	
THE NUMBER AND SIZE OF LEAVES	:	

The petition to revive under 37 CFR 1.137(b) filed 21 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 C.F.R. § 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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

15 JUL 2008

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ALEXANDRIA, VA 22313-1450
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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

In re Application of MIURA et al	:	
U.S. Application No.: 10/572,858	:	
PCT Application No.: PCT/IB2005/003212	:	
Int. Filing Date: 27 October 2005	:	DECISION
Priority Date Claimed: 27 October 2004	:	
Attorney Docket No.: 1085-016US01	:	
For: LIGHT-CONTROL MATERIAL AND METHOD OF MANUFACTURING THE SAME	:	

This is in response to applicant's "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" filed 03 November 2006.

BACKGROUND

On 27 October 2005, applicant filed international application PCT/IB2005/003212, which claimed priority of an earlier Japan application filed 27 October 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 04 May 2006. The thirty-month period for paying the basic national fee in the United States expired on 27 April 2007.

On 22 March 2006, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the requisite basic national fee.

On 09 June 2006, the attorney of record filed an associate power of attorney.[1]

On 03 November 2006, applicant filed the present request to withdraw as attorney.

[1] The practitioner is advised that the associate power of attorney practice has been eliminated as of 25 June 2004. See MPEP 402.02.

DISCUSSION

MPEP 402.06 states in relevant part,

> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between *approval* of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In the present case, at least 30 days remain between approval of the withdrawal and the later of the expiration date of any time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

CONCLUSION

For the reasons above, the request to withdraw as attorney is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 October 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 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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FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Campagna et al.	:	DECISION ON PETITION
Application Number: 10/572871	:	
Filing Date: 05/22/2007	:	
Attorney Docket Number:	:	
2003946-0221 (HEAT-CIP/US	:	

This is a decision on the petition filed on November 20, 2008, which is treated as a petition under 37 CFR 1.59(b), requesting that papers filed on November 14, 2008, be expunged.

The petition is **GRANTED-IN-PART**.

Petitioners' counsel requests that an amendment, terminal disclaimer, and extension of time, filed on November 14, 2008 be expunged because they were submitted in an incorrect application. Petitioners state that the papers were intended to be filed in Application No. 11/340,256, but were inadvertently submitted via EFS-Web in the subject application.

Petitioner therefore seeks to have these documents expunged from the file.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction

of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided. (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The matter petitioners wish to have expunged does not form part of the original disclosure. Petitioners have included the fee associated with the filing of petition under 37 C.F.R. §1.59 and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic documents which contain these pages have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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EDWARDS VACUUM, INC.
2041 MISSION COLLEGE BOULEVARD
SUITE 260
SANTA CLARA CA 95054

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Application of :
Stones et al. :
Application No. 10/572,894 : DECISION ON PETITION
Filed: 03/20/2006 :
Attorney Docket No. M03B354 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 13, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 14, 2008. A Notice of Abandonment was mailed on January 5, 2009.

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner on the reply received on January 21, 2010.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
James E. POLLI, et al. :
Application No. 10/572,912 : DECISION ON PETITION TO
Filed: November 29, 2006 : WITHDRAW FROM RECORD
Attorney Docket No. **069944-0902** :

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 15, 2009.

The request is **APPROVED**.

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

The request was signed by Gilberto M. Villacorta 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.

All future communications from the Office will be directed to the first named signing inventor James E. Polli at the 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: **JAMES E. POLLI**
3524 BUCKS COUNTY COURT
ELLICOTT CITY, MD 21043

25 MAY 2007

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

In re Application of	:	
Kazuo KURODA	:	DECISION ON
Application No.: 10/572,941	:	
PCT No.: PCT/JP04/013737	:	
Int. Filing Date: 21 September 2004	:	PETITION
Priority Date: 22 September 2003	:	
Attorney Docket No.: 8048-1148	:	
For: INFORMATION RECORDING APPRATUS, AND INFORMATION RECORDING/REPRODUCING APPARATUS	:	UNDER 37 CFR 1.181

This decision is in response to applicants' "REQUEST FOR CORRECTION OF DATE OF COMPLETION OF ALL 35 USC 371 REQUIREMENTS" filed on 19 December 2006, which is being treated as a petition under 37 CFR 1.181, requesting acceptance of a copy of the Declaration submitted as filed in the USPTO March 22, 2006, and that the correct date of meeting the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is March 22, 2006.

BACKGROUND

On March 22, 2006, applicant filed a transmittal letter for entry into the national stage in the United States Patent and Trademark Office (PTO), which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicant also provided an executed declaration.

On June 26, 2006, applicant filed a second transmittal letter for entry into the national stage in the United States Patent and Trademark Office (PTO), which was accompanied by, *inter alia*, another copy of the executed declaration.

A Notification of Acceptance (Form PCT/DO/EO/903) was mailed on 20 November 2006 stating that the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is 26 June 2006.

On 19 December 2006, applicant filed the current petition stating the correct 35 USC 371 date should be March 22, 2006, which is the date the executed declaration was filed.

DISCUSSION

A review of the file reveals that the declaration of the inventor is not acceptable because it is a defective declaration because there is an alteration on it – a line across the information of the bottom box. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 20 November 2006 was in **ERROR** stating that the 35 USC 371 date is 26 June 2006 and the notice is hereby **VACATED**.

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

CONCLUSION

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

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision indicating the correct spelling of the second named joint inventor. The two (2) months time period for response may be extended 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 Administration
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

08 MAY 2006

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BORDEN LADNER GERVAIS LLP
1100-100 QUEEN ST
OTTAWA, ON K1P 1J9
CANADA

In re Application of	:	
AMTMANN, Eberhard	:	
Application No.: 10/572,950	:	DECISION
PCT No.: PCT/EP04/10044	:	
Int. Filing Date: 09 September 2004	:	ON PETITION UNDER
Priority Date: 17 September 2003	:	
Docket No.: PAT 3344W-2 US	:	37 CFR 1.137(b)
For: PHARMACEUTICAL FORMULATIONS OF ... (E.G. ACICLOVIR)	:	

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 21 March 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).

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 21 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100628

DATE : June 29, 2010

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7548195

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Thomas H. Tarcza/ **Art Unit** 3662

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Paper No.

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

COPY MAILED
DEC 22 2008

In re Application of	:	
Stacey Ann Jones et al.	:	
Application No. 10/572,974	:	DECISION ON PETITION
Filed: March 22, 2006	:	PURSUANT TO
Atty Docket No. PR60397USw	:	37 C.F.R. § 1.181(A)
Title: COMPOSITIONS AND	:	
METHODS FOR TREATMENT OF	:	
FIBROSIS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on October 22, 2008, requesting that the holding of abandonment be withdrawn.

A restriction requirement was mailed on September 4, 2007, and a response was received on December 4, 2007 along with a two-month extension of time so as to make timely this submission, however this response was deemed to be non-responsive. The above-identified application became abandoned for failure to file a proper response to the notice of non-responsive reply (notice), mailed December 26, 2007, which set an extendable period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 27, 2008. A Notice of abandonment was mailed on July 9, 2008.

Applicants have asserted that the mailing was not received, and have included a copy of the individual docket report that is associated with this application, along with copies of notifications received from the Office during the relevant time period. Petitioner has further stated that the file jacket and the application contents were reviewed, and this search supports a conclusion that the e-notification was not sent.

It is noted that Applicants participate in the e-Office Action Pilot Program. Office records confirm that there was an irregularity in the sending of the e-notification. Specifically, USPTO computer records confirm that the notification for the notice of December 26, 2007 did not process correctly and was not sent to Applicants. It is noted that Applicants were under the electronic delivery system at all times relevant to this decision and thus, a paper copy of the notice was never mailed.

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

No fee is required on petition pursuant to 37 C.F.R. § 1.181(a).

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center will **re-mail the notice of December 26, 2007, 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 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. Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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25 APR 2007

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. Box 37428
Raleigh, NC 27627

In re Application of :
CLARK *et al* :
Application No.: 10/572,975 :
PCT No.: PCT/GB2004/004054 :
Int. Filing Date: 23 September 2004 :
Priority Date: 23 September 2003 : **DECISION**
Attorney Docket No.: 9052-241 :
For: EXECRETABLE REPORTER SYSTEMS :

This is a decision on the declaration filed in the international application pursuant to PCT Rule 4.17(iv) which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 22 March 2006, applicants filed papers to enter the national stage of PCT/GB2004/004054 which was accompanied by, *inter alia*, a copy of a declaration submitted pursuant to PCT Rule 4.17(iv) for a deceased inventor.

DISCUSSION

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

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

The declaration filed pursuant to PCT Rule 4.17(iv) in the international application is signed by four of the five named inventors and Helen Elizabeth Clark as "successor in title" to the inventor, Anthony John Clark who is deceased. However, this declaration is not acceptable for several reasons.

First, it is not clear whether Ms. Clark is acting as the heir, legal representative or in some other capacity.. A "successor in title" has very broad definitions. If Ms. Clark is acting as the sole heir, a statement attesting that there are no other heirs with interest in the subject application is required. Second, the declaration identifies the citizenship, residence, and last mailing address of Ms. Clark as required by 37 CFR 1.497(b)(2). However, there is no information on the deceased inventor. 37 CFR 1.497(a)(3)

requires that the citizenship of each inventor (including any deceased inventor) must be listed on the declaration.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 4 JUN 2007

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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. Box 37428
Raleigh, NC 27627

In re Application of :
CLARK *et al* :
Application No.: 10/572,975 :
PCT No.: PCT/GB2004/004054 :
Int. Filing Date: 23 September 2004 :
Priority Date: 23 September 2003 : **DECISION**
Attorney Docket No.: 9052-241 :
For: EXECRETABLE REPORTER SYSTEMS :

This is a decision on the papers filed on 10 May 2007 and via facsimile on 01 June 2007 which are treated under 37 CFR 1.181 and 37 CFR 1.42.

BACKGROUND

On 25 April 2007, a decision dismissing applicant's petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 10 May 2007, applicants filed several papers including a 7-page declaration and a 3-page Application Data Sheet (ADS).

On 01 June 2007, applicant submitted copies of the papers filed 10 May 2007 and a postcard receipt for those documents.

DISCUSSION

Applicants claim that a response to the decision on petition under 37 CFR 1.42 was mailed with the papers on 10 May 2007. This paper was not located in the file. Moreover, applicants claim that the ADS was five pages long. The ADS in the file is only three pages long.

Petition Under 37 CFR 1.181

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

Applicants have provided a copy of their date-stamped postcard receipt for the papers submitted 10 May 2007. The receipt clearly identifies the application, attorney docket number, and title. The receipt acknowledges the following documents were received: a Response to Decision on Petition; Declaration (7 pages); and ADS (5 pages). The postcard receipt is stamped by the USPTO as received on 10 May 2007.

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

Applicants have provided *prima facie* evidence that the ADS was five pages and a response to decision was included with the papers filed on 10 May 2007.

Petition Under 37 CFR 1.42

In the decision mailed 25 April 2007, the declaration filed in the international application pursuant to PCT Rule 4.17(iv) was deemed not acceptable because it was unclear in what capacity Ms. Clark signed the declaration for a deceased inventor. Moreover, the declaration failed to provide any information on the deceased inventor.

In the declaration submitted 10 May 2007, Ms. Clark is listed as the legal representative of Anthony John Clark. The information required by 37 CFR 1.497(b)(2) for Ms. Clark is listed on the declaration. Moreover, the ADS records the required information for the deceased inventor.

CONCLUSION

The renewed 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 23 September 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 May 2007.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

26 AUG 2009

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

PANASONIC PATENT CENTER
1130 CONNECTICUT AVENUE NW, SUITE 1100
WASHINGTON DC 20036

In re Application of	:
IKEDA et al.	:DECISION ON PETITION
Serial No.: 10/572,983	:
PCT No.: PCT/JP04/15337	:UNDER 37 CFR 1.181
Int. Filing Date: 12 October 2004	:
Priority Date: 10 October 2003	:
Attorney's Docket No.: P36313-02	:
For: PLAYBACK APPARATUS PROGRAM AND	:
PLAYBACK METHOD	:

This decision is in response to applicant's "Petition to Withdraw Abandonment Under 37 CFR 1.181", filed 30 June 2009 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

BACKGROUND

On 12 October 2004, applicant filed the U.S. national stage application for international application PCT/JPO4/15337, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/572,983.

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.

On 18 September 2006, a response to the Notification of Missing Requirements was filed in the USPTO.

On 26 June 2009, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 30 June 2009, applicant filed the instant petition, accompanied by a copy of the declaration and the itemized postcard receipt with USPTO date-stamped 18 September 2006, indicating receipt of a declaration.

DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that the submission of the declaration was mailed on 18 September 2006.

A review of the application file reveals that in response to the Notification of Missing Requirements, an executed declaration was deposited with the USPTO on 18 September 2006. A review of the USPTO finance records reveals that the $130 surcharge for filing the declaration after the thirty month period was paid on 18 September 2006. Therefore, the 26 June 2009 Notification of Abandonment is hereby vacated.

A review of the declaration reveals that the declaration identifies and is executed by each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

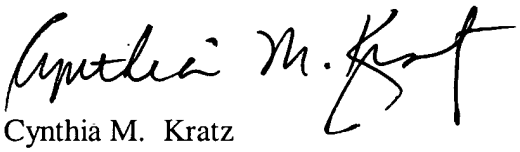
CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

The 26 June 2009 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 18 September 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of $130 was paid.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 September 2006.**



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

21 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL PAPER COMPANY
6285 Tri-Ridge Blvd.
Loveland, Ohio 45140

In re Application of:	:	
NELSON, Lloyd, A., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/572,994	:	REVIVAL OF ABANDONED
PCT No.: PCT/US02/12961	:	APPLICATION UNDER
International Filing Date: 25 April 2002	:	37 CFR 1.137(b)
Priority Date: 27 April 2001	:	
Attorney's Docket No.: ARZ-024630-WO	:	
For: POLYBASIC ACID ESTERS AND THEIR USE IN CABLES	:	

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

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the 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 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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Alexandria, VA 22313-1450
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15 DEC 2006

INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND OH 45140

In re Application of:
NELSON, Lloyd, et al.
U.S. Application No.: 10/572,994
PCT No.: PCT/US02/12961
International Filing Date: 25 April 2002
Priority Date: 27 April 2001
Atty's Docket No.: ARZ-024630-WO
For: POLYBASIC ACID ESTERS AND THEIR USE IN CABLES

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) For Filing When Inventors Refuse To Sign Or Can Not Be Found" filed 08 November 2006. Deposit Account No. 09-0525 will be charged the required petition fee.

BACKGROUND

On 25 April 2002, applicants filed international application PCT/US02/12961. The international application claimed a priority date of 27 April 2001, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 October 2003.

Applicants did not enter the U.S. national stage prior to the expiration of the thirty-month deadline. Accordingly, the application became abandoned with respect to the United States at midnight on 27 October 2003.

On 23 March 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 a petition for revival of the application under 37 CFR 1.137(b).

On 21 April 2006, this Office mailed a decision granting applicants' petition for revival under 37 CFR 1.137(b).

On 10 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and $1410 in additional claims fees were required.

On 08 November 2006, applicants filed a response to the Notification Of Missing Requirements (with the authorization to charge Deposit Account No. 09-0525 the required four-month extension fee). The response included the authorization to charge Deposit Account No. 09-0525 for the required surcharge and claims fees. The response also included a declaration executed by one of the two inventors and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the second inventor Nancy B. MOSBY, whom applicants assert has refused to execute the application.

On 11 December 2006, applicants filed a request for a five-month extension of time to respond. Based on this submission, Deposit Account No. 09-0525 was charged $2,160. Because the response filed herein on 08 November 2006 only required a four-month extension of time, the additional extension fee paid for the fifth month will be refunded to the Deposit Account.

DISCUSSION

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

Applicants here authorized a charge to Deposit Account No. 09-0525 for the required petition fee, and the petition states that the contact information listed on the accompanying declaration is the last known information for the non-signing inventor. Items (1) and (2) are therefore satisfied.

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

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

Here, applicants have filed a declaration executed by co-inventor Lloyd A. NELSON and including an unsigned signature block for the non-signing inventor, Nancy D. MOSBY. This declaration can be accepted as having been executed by the signing inventor on his own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application

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

Here, as evidence of the inventor's refusal to execute the declaration, applicants have provided a letter from the inventor dated 23 April 2002. In that letter, the inventor refers to an invention developed by herself and Lloyd Nelson and states that she does not "desire any credit or recognition in relation to this patent, nor do I desire to retain any potential benefits now or in the future associated with this patent." The inventor goes on to state that "[i[f you must contact me for anything further, you can direct a letter to me at the address listed above."

The inventor's four-year old letter, on its own, is not sufficient to support the conclusion that the inventor refuses to execute the declaration in the present application (for example, it is not clear from the face of the letter whether it refers to the invention underlying the present application). Before it can be concluded that the inventor refuse to execute the declaration herein, applicants are required to send a copy of the complete application (specification, claims, and drawings) to the last known address of the inventor, accompanied by a request that the inventor either execute the declaration or expressly confirm her refusal to execute the declaration in this specific application. If the inventor's address is no longer current, applicants are required to provide evidence that a diligent effort has been made to locate a current address for the inventor and contact her at such address (such a diligent effort should include, but not be limited to, an internet search). As noted in the MPEP, a firsthand statement confirming the asserted facts, with available documentary support, should accompany any submission relating to additional efforts made to obtain the inventor's signature (e.g., copies of the cover letter sent to the inventor, confirmation of receipt of such letter, copies of internet search results, etc.).

Until adequate supplemental materials are provided to confirm that the inventor refuses to execute the declaration herein or cannot be located after diligent effort, item (4) is not satisfied.

Finally, it is noted that, when a charge was attempted by the USPTO, Deposit Account No. 09-0525 did not include sufficient funds for all required fees. Accordingly, the Deposit Account will be charged the $1,590 four-month extension fee, the $200 petition fee, and the $130 surcharge for filing the declaration later than thirty months after the priority date. Applicants are still required to submit payment of the $1,410 in outstanding claims fees, as set forth in the Notification Of Missing Requirements.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above. No additional petition fee is required.

Any response to the present decision must also include payment of the outstanding claims fees required by the Notification Of Missing Requirements mailed 10 May 2006.

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

31 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND, OH 45140

In re Application of	:	
NELSON, Lloyd et al.	:	DECISION ON
Application No.: 10/572,994	:	
PCT No.: PCT/US02/12961	:	RENEWED PETITION
Int. Filing Date: 25 April 2002	:	
Priority Date: 27 April 2001	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: ARZ-024630-WO	:	
For: Polybasic Acid Esters And Their Use In Fibre Optic Cables	:	

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(a) For Filing When Inventors Refuse To Sign Or Can Not Be Found," filed in the United States Patent and Trademark Office on 15 May 2007 on behalf of the non-signing inventor Nancy Mosby. The petition under 37 CFR 1.47(b) is **GRANTED**.

BACKGROUND

On 25 April 2002, applicants filed international application PCT/US02/12961, claiming a priority date of 27 April 2001. The thirty-month for paying the basic national fee in the United States expired at midnight on 27 October 2003.

Applicants did not enter the U.S. National stage prior to the expiration of the thirty-month deadline. As such, the application became abandoned with respect to the United States at midnight on 27 October 2003.

On 23 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 and a petition for revival of the application under 37 CFR 1.137(b).

On 21 April 2006, the Office mailed a decision granting applicants' petition for revival under 37 CFR 1.137(b).

On 10 May 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b), the surcharge for late filing of the oath or declaration and additional claim fees of $1,410 were required.

On 08 November 2006, applicants filed a response to the Notification of Missing Requirements including, a declaration executed by one of the two inventors, a petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Nancy Mosby and, an authorization to charge Deposit Account No. 09-0525 the required surcharge for late filing of the oath or declaration, the additional claim fees of $1,410, the petition fee and a four-month extension fee.

On 11 December 2006, applicants filed a request for a five-month extension of time to respond. Based on this submission, Deposit Account No. 09-0525 was charged $2,160. Because the response filed on 08 November 2006 required only a four-month extension of time, the additional extension fee paid for the fifth month was credited back to Deposit Account No. 09-0525.

On 15 December 2006, the Office mailed "Decision on Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice. Because the submitted evidence did not indicate whether a copy of the application had been sent to non-signing inventor Nancy Mosby, the Decision concluded that the inventor's four-year letter (dated 23 April 2002) refusing to be associated with International Paper (with regard to an ISO VG 400 product) does not support the conclusion that the inventor refuses to execute the declaration in the present application, thereby does not meet the requirements of 37 CFR 1.47(a).

On 15 May 2007, applicants filed a renewed a petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Nancy Mosby, a declaration by Mr. Jimmy Gilbreth and a second letter from non-signing inventor Nancy Mosby.

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 resulting from an Internet search (the search was executed by Internet company US Search.com).

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventor 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 by Mr. Jimmy Gilbreth indicates that on two separate occasions (April 27,2007 and May 7, 2007) a copy of the application had been sent to non-signing inventor Nancy Mosby. The Federal Express tracking confirmations are sufficient to show that the application papers were mailed to the last known address of non-signing inventor Nancy Mosby. Further, the second letter from non-signing inventor Nancy Mosby to Mr. Jimmy Gilbreth (dated 06 May 2007) clearly shows her refusal to be associated with International Application PCT/US02/12961 and hence, the instant application, which is its U.S. national stage. As such, item (4) is satisfied.

As authorized by applicants, the additional claim fees of $1,410 will be charged to Deposit Account No. 50-4222.

CONCLUSION

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

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

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

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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

05/31/2007 SBASHEIR 00000003 504222 10572994
01 FC:1614 400.00 DA
02 FC:1615 650.00 DA
03 FC:1616 360.00 DA

31 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nancy Mosby
4115 Swarthmore Street
Houston, Texas 77005

In re Application of
NELSON, Lloyd et al.
Application No.: 10/572,994
PCT No.: PCT/US02/12961
Int. Filing Date: 25 April 2002
Priority Date: 27 April 2001
Attorney's Docket No.: ARZ-024630-WO
For: Polybasic Acid Esters And Their Use In Fibre Optic Cables

Dear Ms. Mosby:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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

INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND, OH 45140

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

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

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,470,671 :
Issue Date: December 30, 2008 :
Application No. 10/572,999 : DECISION ON PETITION
Filed: March 23, 2006 :
Attorney Docket No. 11123.0105USWO :

This is a decision on the petition, filed, April 21, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Laboratoires Fournier S. A." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Laboratoires Fournier S. A." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

2 4 SEP 2008

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P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of	:	
JOERGENSEN	:	
Application No.: 10/573,007	:	
PCT No.: PCT/EP04/51713	:	DECISION ON REQUEST
Int. Filing Date: 04 August 2004	:	
Priority Date: 23 September 2003	:	
Attorney Docket No.: CM05749EC	:	
For: METHOD AND MOBILE STATION FOR AUTOMATIC CREATION OF TALK GROUP	:	

This decision is in response to applicants' "REPLY TO OFFICE ACTION" filed 15 August 2008 notifying the Office that Niels Erik Joergensen is a correct spelling of the inventor's name even though the inventor is identified as Niels Erik Jorgenson on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Applicant has provided an explanation from the inventor indicating that the Danish character in question can be translated into English as either "oe" or "o." Accordingly, applicants' explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

The application has an international filing date of 04 August 2004 under 35 U.S.C. 363 and will be given a date of **21 March 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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P.O. Box 1450
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OFFICE OF PETITIONS

In re Application of :
Bernard Handrik Reesink et al :
Application No. 10/573,051 : DECISION ON PETITION
Filed: March 22, 2006 :
Attorney Docket No. 4872 :

This is a decision on the petition, filed May 8, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed February 4, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 17, 2009.

Petitioner asserts that the Office action dated February 4, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of February 4, 2008. In this regard, a Notice of Correspondence Address/Fee Address change was set to Customer Number 48227 on September 10, 2008 which is after the mailing of the non-final Office action of February 4, 2008. Accordingly, as the non-final Office action was mailed to an incorrect address, the Notice of Abandonment mailed March 17, 2009 is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 1797 for remailing the Office action of February 4, 2008 and resetting the period for reply.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 08/03/2010

Applicant	: Masayoshi Mototani	: DECISION ON REQUEST FOR
Patent Number	: 7644641	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANTOR COLBURN LLP
INTELLECTUAL PROPERTY ATTORNEYS
20 Church Street, 22nd Floor
Hartford, CT 06103
tel: (860) 286-2929
fax: (860) 286-0115

FACSIMILE TRANSMITTAL SHEET

DATE: March 25, 2009
TO: PETITION OFFICE
COMPANY: U.S. PATENT AND TRADEMARK OFFICE
FAX NO.: (571) 273-8300 TEL. NO.:

FROM: Diane Briggs (Cantor Colburn LLP)
OUR REF: **GRP-0153** YOUR REF: USSN 10/573,059

TOTAL NUMBER OF PAGES SENT (INCLUDING THIS COVER SHEET): 6

COMMENTS: TO WHOM IT MAY CONCERN:

Please find enclosed the Petition Pursuant to 37 C.F.R. 3.81(b); Request for Certificate of Correction of Patent for Applicants' Mistake (37 C.F.R. 1.323); and a Certificate of Correction (Form PTO-1050) for U.S. Serial No. 10/573,059.

Please charge the above to Deposit Account 06-1130 ($230).

Thank you,
CANTOR COLBURN LLP

If there are any problems with this transmission,
please call (860) 286-2929 and ask for D. Briggs

IMPORTANT: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading, disseminating, distributing or copying this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

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Ref: GRP0153US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: US 7,379,001 B2

Issued: May 27, 2008

Name of Patentee: Pedersen, et al.

Title of Invention: SELF-OSCILLATING A/D-CONVERTER

PETITION PURSUANT TO 37 C.F.R. 3.81(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 3.81(b), Assignee herein petitions to correct the name and address of assignee. The Assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent and was recorded on March 22, 2006, at Reel 017728, Frame 0743. Please charge Deposit Account No. 06-1130 the $130.00 petition fee set forth in 37 C.F.R. 1.17(i).

The correct name and address of the assignee is TC Electronic A/S, Denmark. A Request for a Certificate of Correction of Patent for Applicant's Mistake together with Form PTO 1050 is filed herewith.

It is respectfully requested if the Petition is granted to please forward the file to the Certificates of Correction Branch for issuance of a Certificate of Correction.

03/27/2009 HMARZI1 00000045 061130 7379001
01 FC:1464 130.00 DA

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MAR 25 2009

If there are any additional charges with respect to this Petition, please charge them to Deposit Account No. 06-1130 maintained by Assignee's attorneys.

Respectfully submitted,

CANTOR COLBURN LLP

By: _____

Daniel R. Gibson
Registration No. 56,539
20 Church Street
22nd Floor
Hartford, Connecticut 06103
Telephone: (860) 286-2929
Customer No. 23413

Date: March 25, 2009

PAGE 3/6 * RCVD AT 3/25/2009 2:35:25 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2738300 * CSID:860 286 0115 * DURATION (mm-ss):01-22

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MAR 2 5 2009

Ref: GRP0153US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: US 7,379,001 B2

Issued: May 27, 2008

Name of Patentee: Pedersen, et al.

Title of Invention: SELF-OSCILLATING A/D-CONVERTER

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANTS' MISTAKE (37 C.F.R. 1.323)

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

ATTENTION: Decision and Certificate of Correction
Branch of the Patent Issue Division

Sirs:

It is noted that an error appears in this patent of a typographical nature or character, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of correction is requested.

Attached hereto is Form PTO-1050.

The error appears in the Title Page, Item (73), Assignee information.

Please send the Certificate of Correction to:

Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, Connecticut 06103

03/27/2009 HMARZI1 00000045 061130 7379001
02 FC:1811 100.00 DA

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MAR 2 5 2009

Please charge the amount of $100.00, as required by 37 C.F.R. 1.20(a) or any additional charges with respect to this request or otherwise, to Deposit Account No. 06-1130 maintained by Patentees' attorneys.

Respectfully submitted,

CANTOR COLBURN LLP

By: _____

Daniel R. Gibson
Registration No. 56,539
20 Church Street
22nd Floor
Hartford, Connecticut 06103
Telephone: (860) 286-2929
Customer No. 23413

Date: March 25, 2009

PAGE 5/6 * RCVD AT 3/25/2009 2:35:25 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2738300 * CSID:860 286 0115 * DURATION (mm-ss):01-22

PTO/SB/44 (04-06)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:US 7,379,001 B2
APPLICATION NO.	:10/573,059
ISSUE DATE	:May 27, 2008
INVENTOR(S)	:Pedersen, et al.

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

Title Page Item (73), Assignee, delete "TC Electric A/S (DK)" and insert therefor --TC Electronic A/S, Denmark--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103

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

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.

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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21 JUL 2006

Tiajoloff & Kelly
Chrysler Building, 37th Floor
405 Lexington Avenue
New York, NY 10174

In re Application of	:	
SLAPAK, Alon et al.	:	
Application No.: 10/573,060	:	DECISION
PCT No.: PCT/IL04/00863	:	
Int. Filing Date: 19 September 2004	:	ON PETITION UNDER
Priority Date: 17 September 2003	:	
Docket No.: ELG-P-6129US	:	37 CFR 1.137(b)
For: ACTIVE NOISE CONTROL SYSTEM AND METHOD	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 20 March 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 after thirty months from the priority date is required. The correction to the name of the first inventor from "Alon Slapail" to "Alon Slapak" is accepted as a typographical error under MPEP 201.03.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the surcharge for late filing of the search fee, examination fee or oath or declaration 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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Alexandria, VA 22313-1450
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TIAJOLOFF & KELLY
CHRYSLER BUILDING, 37TH FLOOR
405 LEXINGTON AVENUE
NEW YORK, NY 10174

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of :
Alan Slapak, et al. :
Application No. 10/573,060 : DECISION ON PETITION
Filed: March 20, 2006 : TO WITHDRAW
Attorney Docket No. ELG-P-6129US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 5, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Tiajoloff & Kelly has been revoked by the assignee of the patent application on February 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: EMPK & SHILOH, LLP
116 JOHN STREET
SUITE 1201
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Raanan Ben-Horin	: DECISION ON REQUEST FOR
Patent Number	: 7581649	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **66** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

P29558

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RECEIVED
OCT 09 2008
GREENBLUM & BERNSTEIN PLC

Date Mailed: October 7, 2008
Patent No. :7,399,596 B2
Ser. No. :10/573072
Inventor(s) :Hiroshi Oda, et al.
Title :METHOD FOR PREDICTING PREGNANCY-INDUCED HYPERTENSION

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 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.

[redacted]
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Greenblum & Bernstein, PLC
1950 Roland Clarke
Reston, VA 20191-1411

[redacted]

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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NOV 2 8 2008

OFFICE OF PETITIONS

In re Patent No. 7,399,596 :
Issue Date: July 15, 2008 :
Application No. 10/573,072 : ON PETITION
Filed: March 23, 2006 :
Attorney Docket No. P29558 :

This is a decision on the petition filed September 16, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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WILLIAM COLLARD
1077 NORTHERN BLVD
ROSLYN, N.Y. 11576

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AUG 2 1 2008

Applicant: Artelsmair
Appl. No.: 10/573,107
Filing Date: March 23, 2006
Title: METHOD FOR CONTROLLING AND/OR ADJUSTING A WELDING PROCESS
Attorney Docket: ARTELSMAIR 5PCT
Pub. No.: US 2007/0102411 A1
Pub. Date: May 10, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 14, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in the front page of the application wherein the inventors, assigned and foreign priority are not correct.

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

The request for corrected publication, received on August 14, 2007, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

---

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

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

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10 FEB 2009

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www.uspto.gov

ASTRA ZENECA PHARMACEUTICALS LP
GLOBAL INTELLECTUAL PROPERTY
1800 CONCORD PIKE
WILMINGTON DE 19850-5437

In Re Application of
DORFF.et al.
Application No.: 10/573,133
PCT No.: PCT/GB04/04116
Int. Filing Date: 24 September 2004
Priority Date: 25 September 2003
Attorney Docket No.: 101158-1P US
For: LIGANDS

DECISION ON

PETITION

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 27 May 2007.

BACKGROUND

On 24 September 2004, applicant filed international application No. PCT/GB04/04116 which claimed a priority date of 25 September 2003 and which designated the United States. Thereafter, on 23 March 2006, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 27 November 2006, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 January 2007, applicant responded with a declaration. On 20 April 2007, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007.

On 27 May 2007, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 23 March 2006.

DISCUSSION

Section MPEP 1893.03(b) states "An international application designating the U.S. has two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." *See* 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of

all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.[1] Applicants responded to the Notification of Missing Requirements, on 12 January 2007, with such declaration. Thus, on 12 January 2007, all of the 35 U.S.C. 371 requirements were complete. The 20 April 2007 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements.

The Notification of Acceptance mailed on 20 April 2007 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 20 April 2007 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 12 January 2007.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

[1]As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). *See* 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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JAN 11 2010

OFFICE OF PETITIONS

In re Application of
Shinji Maekawa, et al.
Application No. 10/573,155
Filed: March 23, 2006
Attorney Docket No. 7407562939

: 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 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2895 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Alf Zips	: DECISION ON REQUEST FOR
Patent Number	: 7620463	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 04/27/2010

Applicant	: Uwe Zulehner	: DECISION ON REQUEST FOR
Patent Number	: 7611663	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,172	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **548** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER L.L.P.
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of :
Wataru IKEDA, et al. :
Application No. 10/573,173 : DECISION ON PETITION
Filed: March 22, 2006 : TO MAKE SPECIAL
For: **RECORDING MEDIUM, REPRODUCTION DEVICE, PROGRAM, AND REPRODUCTION METHOD** :

This is a decision on the petition filed July 20, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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30 APR 2007

DEFILLO & ASSOCIATES, INC.
P.O. Box 14104
Clearwater FL 33766

In re Application of JOSEP DURAN VON ARX
Application No.: 10/573,183
PCT No.: PCT/ES04/00416
Int. Filing: 22 September 2004
Priority Date: 22 September 2003
Attorney Docket No.: 600.006
For: NASAL STIMULATOR

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 April 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant failed to pay the basic national fee by the thirty month period. A Notification of Abandonment was mailed on 27 October 2006.

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).

The required petition fee of $750 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.

A copy of the international application and English translation thereof was submitted on 23 March 2006. A review of the declaration executed by the inventor indicates that it is in compliance with 37 CFR 1.497(a) and (b). However, the $65 surcharge for filing the declaration and the $130 processing fee for filing the English translation of the international application after thirty month period are required.

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

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

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

0 6 NOV 2007

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William Thomas Babbitt
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025

In re Application of	:	
Sakai, et al.	:	
Serial No.: 10/573,191	:	DECISION ON
PCT No.: PCT/JP2004/015828	:	PETITION
Int. Filing Date: 26 October 2004	:	UNDER 37 CFR 1.137(a)
Priority Date: 07 November 2003	:	
Attorney's Docket No.: 8002P0001	:	
For: PHARMACEUTICAL COMPOSITION CONTAINING PROSTAGLANDIN	:	

This decision is responsive to the "PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)" filed 11 September 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw a holding of abandonment.

BACKGROUND

On 26 October 2004, applicants filed international application PCT/JP2004/015828 which claimed priority of an earlier United States application filed 07 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 May 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 07 May 2006.

On 21 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by *inter alia*, a copy of the application, a translation of the international application, a preliminary amendment, the basic national fee, the search fee and the examination fee. These papers were assigned U.S. Serial No. 10/573,191.

On 29 November 2006, the United States Patent and Trademark Office in its capacity as an Elected Office 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 and the $130 surcharge for providing the oath/declaration after 30 months from the earliest claimed priority date. The notification set a two-month time period in which to respond.

On 11 September 2007, applicant filed the current petition under 37 CFR 1.181.

DISCUSSION

Applicant is alleging that the office action, i.e., 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), was never received. According to MPEP 711.03(c), in order for applicant to establish nonreceipt of an Office communication, applicant must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. Applicant provided what appears to be the docket entries for this particular application, which does not meet this requirement.

Applicants have not provided the required statement. Therefore, the petition to revive is DISMISSED.

CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181 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 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

25 JAN 2008

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William Thomas Babbitt
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025

In re Application of	:	
Sakai, et al.	:	
Serial No.: 10/573,191	:	DECISION ON
PCT No.: PCT/JP2004/015828	:	RENEWED PETITION
Int. Filing Date: 26 October 2004	:	UNDER 37 CFR 1.181
Priority Date: 07 November 2003	:	
Attorney's Docket No.: 8002P0001	:	
For: PHARMACEUTICAL COMPOSITION CONTAINING PROSTAGLANDIN	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. §1.181" filed 19 November 2007.

BACKGROUND

On 26 October 2004, applicants filed international application PCT/JP2004/015828 which claimed priority of an earlier United States application filed 07 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 May 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 07 May 2006.

On 21 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by *inter alia*, a copy of the application, a translation of the international application, a preliminary amendment, the basic national fee, the search fee and the examination fee. These papers were assigned U.S. Serial No. 10/573,191.

On 29 November 2006, the United States Patent and Trademark Office in its capacity as an Elected Office 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 and the $130 surcharge for providing the oath/declaration after 30 months from the earliest claimed priority date. The notification set a two-month time period in which to respond.

On 11 September 2007, applicant filed a petition under 37 CFR 1.181 requesting that 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) be given a new mail date, since applicant did not receive the notification mailed 29 November 2006.

On 06 November 2007, a petition decision was mailed to applicant indicating that the petition was dismissed for failure to provide the required docket record.

On 19 November 2007, applicant filed the current petition.

DISCUSSION

Applicant is alleging that the office action, i.e., 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), was never received. According to MPEP 711.03(c), in order for applicant to establish nonreceipt of an Office communication, applicant must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

Applicants have provided the required statement and a copy of the docket records where the nonreceived Office communication would have been entered had it been received. Therefore, the petition to withdraw the holding of abandonment is granted.

CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The application has an International Filing Date under 35 U.S.C. 363 of **26 October 2004** and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of **11 September 2007**.

This application is being forwarded to the national stage office for processing in accordance with this decision.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

09 MAY 2006

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

In re Application of	:	
PRUSAK	:	
Application No.: 10/573,209	:	DECISION ON
PCT No.: PCT/CH03/00447	:	
Int. Filing Date: 07 July 2003	:	PETITION UNDER
Priority Date: 06 August 2002	:	
Attorney Docket No.: HRG-PT033 (G5455pct/us)	:	37 CFR 1.137(b)
For: UNDERGROUND PIPE AND METHOD OF SECURING CONDUITS THEREIN	:	

This decision is in response to applicant's submission filed 24 March 2006.

BACKGROUND

On 07 July 2003, applicant filed international application PCT/CH03/00447 which designated the U.S. and claimed a priority date of 06 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 February 2005 (06 February 2005 being a Sunday).

On 24 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 the inventor, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 24 March 2006.

As to item (2), applicant submitted the petition fee on 24 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 24 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 22-0493.

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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BASELL USA INC
DELAWARE CORPORATE CENTER II
2 RIGHTER PARKWAY SUITE #300
WILMINGTON DE 19803

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OFFICE OF PETITIONS

In re Application of	:	
Bildstein, et al.	:	
Application No. 10/573,228	:	ON PETITION
Filed: March 24, 2006	:	
Attorney Docket No. LU 6134(US)	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 14, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed July 9, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on October 10, 2007. The Office mailed a Notice of Abandonment on July 23, 2008.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Power of Attorney filed on May 14, 2007.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 1796 for re-mailing of the July 9, 2007 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

24 APR 2006

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Graham E. Taylor
The Dow Chemical Company
Intellectual Property
P.O. Box 1967
Midland, Michigan 48641-1967

In re Application of: PELED, Uri, et al.
U.S. Application No.: 10/573,264
PCT No.: PCT/US04/29386
International Filing Date: 10 September 2004
Priority Date: 12 September 2003
Attorney's Docket No.: 63402A
For: IMPROVED AGRICULTURAL SOIL HEATING PROCESSES USING AROMATIC THERMOPLASTIC POLYURETHANE FILMS

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 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has submitted the basic national fee, and Deposit Account No. 04-1512 will be charged the required petition fee. The requirements of 37 CFR 1.137(b) have been satisfied; therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 04-1512 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 23 March 2006.

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

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

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OFFICE OF PETITIONS

In re Application of :
Peled, et al. :
Application No. 10/573,264 : ON PETITION
Filed: March 23, 2006 :
Attorney Docket No. 63402A :

This is a decision on the petition under 37 CFR 1.182, filed January 17, 2008, to accord an amendment improperly filed in application serial number 10/573,264 on December 24, 2007, transferred to application serial number 10/573,264 and accorded a filing date of December 24, 2007.

The petition is **granted**.

A review of the application file history reveals that a non-final Office action was mailed July 26, 2007, allowing a shortened statutory period for reply of three-months from its mailing date. The instant petition was filed on January 17, 2008, explaining that a timely response to the non-final Office action was filed on December 24, 2007, along with a request for an extension of time within the second month, but that an incorrect application serial number was cited on the documents. A review of the file history of application serial number 10/573,364 reveals that an amendment intended to be filed application serial number 10/573,264 was filed in application 10/573,364 on December 24, 2007.

It has been a long-standing practice of the USPTO to recognize a response as timely when it is timely received somewhere in the Office, but misrouted due to an error in the citation of the application serial number. Accordingly, the amendment improperly filed in application 10/573,364 has been transferred to application serial number 10/573,264 along with the monies remitted for the extension of time within the second month.

The application file is being forwarded to Technology Center 3600, GAU 3643 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

18 MAY 2006

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	
ALVES	:	
Application No.: 10/573,269	:	DECISION ON
PCT No.: PCT/EP04/14083	:	
Int. Filing Date: 08 September 2004	:	PETITION UNDER
Priority Date: 08 September 2003	:	
Attorney Docket No.: 1418160	:	37 CFR 1.137(b)
For: STAND FOR DISPLAY ARTICLES,	:	
SUCH AS FLAT-PACKED ARTICLES	:	

This decision is in response to applicants' submission filed 23 March 2006.

BACKGROUND

On 08 September 2004, applicants filed international application PCT/EP04/14083 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 07 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2006.

On 23 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, 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 23 March 2006.

As to item (2), applicant submitted the petition fee on 23 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) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

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OFFICE OF PETITIONS

Applicant: Yanagisawa, et al.
Appl. No.: 10/573,274
International Filing Date: September 29, 2004
Title: PHENYLENE DERIVATIVE HAVING TETRAZOLE RING OR THIAZOLIDINEDIONE RING
Attorney Docket No.: 251371
Pub. No.: US 2007/0105846 A1
Pub. Date: May 10, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 9, 2007, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the priority data was not published on the front page and the assignee information is wrong.

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 misprinting the foreign priority data and the assignee may be an Office error, but it is a not material Office error under 37 CFR 1.221. The misprint does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

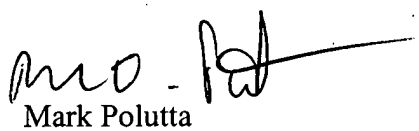
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 0923/09

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10573297
Patent No.: 7531300

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **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: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

1642

SPE **Art Unit**

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NOV 23 2009

OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3734

In re Patent No. 7,531,300	:	
Issue Date: May 12, 2009	:	
Application No. 10/573,297	:	ON PETITION
Filed: April 9, 2007	:	
Attorney Docket No. 082368-007500US	:	

This is a decision on the petition filed September 17, 2009, under 37 CFR 3.81(b) to correct the residence of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

NOV 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Shinji Maekawa	:	
Application No. 10/573,328	:	DECISION GRANTING PETITION
Filed: March 24, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2943	:	

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

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

This application is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Terri Johnson
Petitions Examiner
Office of Petitions

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

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

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JAN 21 2010

OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

In re Application of :
Arjen Amelink :
Application No. 10/573,337 : ON PETITION
Filed: February 21, 2007 :
Attorney Docket No. 207,517 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed September 24, 2008. A Notice of Abandonment was mailed on March 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2863 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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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KING & SCHICKLI
247 NORTH BROADWAY
LEXINGTON, KY 40507

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of
Lawrence E. Holloway et al
Application No. 10/573,342
Effective Date: March 24, 2006
Attorney Docket No. 434C293

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 March 24, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes a statement by Richard R. Muse et al attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This application is being referred to the Office of Initial Patent Examination for preexamination processing. This application will be accorded "special" status when preexamination processing is done.

Wan Laymon
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/25/09

Paper No.: ____

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/573356 Patent No.: 7559631B2

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 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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NOV 19 2008

In re Application of :
LUNN, Meredith et al. :
Application No. 10/573,357 : DECISION ON PETITION
Filed: March 23, 2006 : TO WITHDRAW
Attorney Docket No. **101046.0001US** : FROM RECORD
:

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

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & ASSOCIATES, PC**
ROBERT D. FISH
2603 MAIN STREET
SUITE 1050
IRVINE CA 92614-6232

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
LUNN, Meredith et al. :
Application No. 10/573,357 : DECISION ON PETITION
Filed: March 23, 2006 : TO WITHDRAW
Attorney Docket No. **101046.0001US** : 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 04, 2008.

The request is **APPROVED**.

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

The request was signed by Todd W. Wight on behalf of all attorneys of record who are associated with customer No. 34284. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 04, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MEREDITH LUNN**
25391 GALLUP CIRCLE
LAGUNA HILLS, CA 92653

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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Paul F Donovan
Illinois Tool Works Inc
3600 West Lake Avenue
Glenview, IL 60026

Mail Date: 04/27/2010

Applicant	: Randy J. Sayers	: DECISION ON REQUEST FOR
Patent Number	: 7677873	: RECALCULATION of PATENT
Issue Date	: 03/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,397	: OF WYETH
Filed	: 03/22/2006	:
		:

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.

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

11/20/09

In re Application of:
LAGO-ARENAS, MARTA
Serial No.: 10/573,414
Filed: Nov. 2, 2006
Docket: 02804.0075
Title: CUTLERY SET ASSEMBLY

DECISION ON PETITION
UNDER 37 CFR 1.91

This is a decision on the petition for request entry of exhibit filed under 37 CFR 1.91.

The petition filed on September 22, 2009 requests entry of exhibit of a preferred cutlery set assembly, filed under 37 CFR 1.91[1] and includes the required petition and the required fee as set forth in 37 CFR 1.17(h). The petition fee of $130.00 was paid in accordance with 37 CFR 1.17(h).

The request to enter the exhibit and the petition comply with the requirements as set forth in 37 CFR 1.91. Accordingly, the requested entry of the exhibit in the file record is granted. Currently, the exhibit has been placed in a separate artifact file for the examiner's consideration.

The application is being forwarded to the examiner for consideration of the exhibit, goggles, filed on June 11, 2009. Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is **granted**.

Robert Olszewski, Director
Technology Center 3700

[1] § 1.91 Models or exhibits not generally admitted as part of application or patent. (a) A model or exhibit will not be admitted as part of the record of an application unless it: (1) Substantially conforms to the requirements of § 1.52 or § 1.84; (2) Is specifically required by the Office; or (3) Is filed with a petition under this section including: (i) The fee set forth in § 1.17(h); and (ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability. (b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application. (c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

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OFFICE OF PETITIONS

Client 21058
c/o DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

In re Application of	:	
Yuegang Zhang, et al.	:	
Application No. 10/573,421	:	DECISION ON PETITION
Filed: February 14, 2007	:	TO WITHDRAW
Attorney Docket No. INTEL1440-5 (P13837XPCTC)	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 10, 2009.

The request is **APPROVED**.

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

The request was signed by Marie Collazo on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Intel Corporation**
2200 Mission College Blvd.
Santa Clara, CA 95054

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
10/573,421	02/14/2007	Yuegang Zhang	INTEL1440-5 (P13837XPCTC)

CONFIRMATION NO. 2036

POWER OF ATTORNEY NOTICE

75172
Client 21058
c/o DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

Date Mailed: 08/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2009.

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

/tswilliams/

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAIL

DEC 17 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
SCHIEHLEN, MATTHIAS
Application Serial No.: 10/573,429
Filed: December 11, 2006
For: **METHOD AND SYSTEM FOR ACQUIRING DATA FROM MACHINE-READABLE DOCUMENTS**

DECISION
ON PETITION

This is a decision on the petition filed on September 25, 2008, which is treated as a petition to envoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181.

The petition is **Dismissed**.

Applicant requests the accompanying amendment with this petition, inserting reference to a claim for priority into the specification, be entered and the application undergo accelerated examination.

MPEP §1893.03(c), The Priority Date, Priority Claim, and Priority Papers for a U.S. National Stage Application, states in part:...

*Note: a national stage application submitted 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 **>international filing date of the< international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence(s) 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.*

A review of the record reveals that the application was granted national stage status under 35 U.S.C. 371 as evidenced by the notice of acceptance under 35 U.S.C. 371 and 37 CFR 1.495 letter mailed on May 24, 2007. Therefore, the petition to enter the amendment to the specification to correct formality is dismissed as unnecessary.

Petitioner further requests application to undergo accelerated examination. Upon further review of the record reveals that there are no papers or petitions to make special filed in accordance with MPEP 708.02(a). Therefore, the petition to have the application undergo accelerated examination is dismissed.

The amendment to the specification filed September 25, 2008 will be considered in accordance with 37 CFR 1.121 during the regular course of prosecution.

Kenneth A. Wieder,
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,438	08/15/2008	Gerd Luedke	20030969-02	7675

7590 11/30/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
WHISENANT, ETHAN C	

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
11/30/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Nimi Jarmes

Patent Publication Branch
Office of Data Management

27 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Joseph W. Berenato, III
Berenato, White & Stavish, LLC
6550 Rock Spring Drive, Suite 240
Bethesda, Maryland 20817

In re Application of :
PFAU et. al. :
Application No.: 10/573,442 :
PCT No.: PCT/US04/27079 :
Int. Filing Date: 20 August 2004 : DECISION ON PETITION
Priority Date: 20 August 2003 :
Attorney Docket No.: 16240.M303PCT :
For: COMPOSITE DOOR STRUCTURE AND METHOD OF MAKING SAME, AND COMPOSITE DOOR AND METHOD OF MAKING SAME

The petition to revive under 37 CFR 1.137(b) filed 24 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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28 SEP 2007

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

In re Application of:	:	
JENKINS, Martin, et al.	:	DECISION
U.S. Application No.: 10/573,443	:	
PCT No.: PCT/EP2003/050662	:	
International Filing Date: 26 September 2003	:	
Priority Date: None	:	
Attorney's Docket No.: 016782-0355	:	
For: CATALYTIC CONVERTER AND METHOD FOR MAKING SAME	:	

This decision is issued in response to the "Reply To Notification Of Defective Response" filed 22 March 2007, treated herein as a petition under 37 CFR 1.181 to confirm that the declaration filed during the international phase is acceptable under 37 CFR 1.497. No petition fee is required.

BACKGROUND

On 26 September 2003, applicants filed international application PCT/EP2003/050662. The international application did not claim an earlier priority date, and it designated the United States. On 07 April 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the international filing date, i.e., 26 March 2006.

Subsequent to the filing of the international application, applicant filed an executed Declaration of Inventorship under PCT Rule 4.17(iv) (hereinafter the "Rule 4.17(iv) declaration"). The declaration was filed within the time period permitted under PCT Rule 26ter. The Rule 4.17(iv) declaration did not comply with the instructions for such declarations in that the PCT application number was not indicated in the body of the declaration.

On 24 March 2006, applicants filed a Transmittal Letter seeking entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 13 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a proper oath or declaration, and the surcharge for filing the oath or declaration later than thirty months after the priority date, were required. The Notification indicated that the current oath or declaration (i.e., the Rule 4.17(iv) declaration) did not identify the application to which it was directed.

On 13 November 2006, applicants filed a response to the Notification Of Missing Requirements that included payment of the $130 surcharge and a copy of the executed Rule 4.17(iv) declaration filed during the international stage of the application.

On 22 February 2007, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that the response was defective in that applicant had resubmitted the same declaration.

On 22 March 2007, applicants filed the submission considered herein as a petition under 37 CFR 1.181. The petition argues that the Rule 4.17(iv) declaration filed during the international phase complies with the requirements of 37 CFR 1.497 and should therefore be accepted.

DISCUSSION

As discussed above, the Rule 4.17(iv) declaration was filed during the international phase of this application within the time limits provided for in PCT Rule 26ter. The issue here is whether the declaration properly "[i]dentifies the specification to which it is directed," as required under 37 CFR 1.497(a)(2).

The instructions for PCT Rule 4.17(iv) declarations state that where, as here, such a declaration is filed after the filing of the original international application, the declaration must identify the international application to which it is directed by listing the PCT application number within the body of the declaration. Here, the Rule 4.17(iv) declaration filed by applicants does not comply with these instructions in that the declaration does not include the PCT application number within the body of the declaration. Regardless, applicants argue that the Rule 4.17(iv) declaration adequately identifies the specification to which it was directed; applicants rely on the fact that the declaration bears the attorney docket number that was listed on the Request (Form PCT/RO/101) filed to initiate the international application.

MPEP section 602(VI) sets forth the various forms of information that are considered adequate to identify the specification to which a declaration is directed. Applicants assert that this section of the MPEP "indicates that an attorney docket number is adequate identification." However, the relevant MPEP provision refers specifically to the "attorney docket number which was on the **specification** as filed" (emphasis added). The MPEP does not state that the presence on the declaration of an attorney docket number contained on application materials other than the specification is an adequate identification of the specification to which the declaration is directed. A review of the specification as filed in the present international application confirms that there is no attorney docket number listed thereon. Based on the above, the presence on the Rule 4.17(iv) declaration of an attorney docket number that was listed on the Request form, but not on the specification as filed, is not an adequate identification of the specification to which the declaration was directed under the terms of the MPEP, nor does the present declaration contain any of the alternative forms of identifying information listed in MPEP section 602(VI). Accordingly, the Rule 4.17(iv) declaration filed here does not adequately identify the specification to which it is directed; the declaration therefore fails to comply with 37 CFR 1.497(a)(2).

Applicants also argue that 37 CFR 1.497(a) applies "only when a declaration under PCT Rule 4.17(iv) has not been submitted in the international application." However, 37 CFR 1.497(a) expressly states that an acceptable oath or declaration is required if "a declaration **in compliance with this section** has not been previously submitted in the international application under PCT Rule 4.17(iv)" (emphasis added). As noted above, the Rule 4.17(iv) declaration filed here is not "in compliance with" 37 CFR 1.497 in that it fails to adequately identify the specification to which it is directed, as required under 37 CFR 1.497(a)(2). Thus, based on the express terms of 37 CFR 1.497(a), the previous submission of the non-compliant Rule 4.17(iv) declaration does not eliminate the requirement that applicants submit a proper declaration acceptable under 37 CFR 1.497(a)-(b).[1]

Finally, applicants rely on MPEP section 1893.01(e) for the proposition that "a PCT Rule 4.17(iv) declaration takes the place of a declaration under 37 CFR 1.497(a)-(b)." However, as discussed above, and as expressly stated in 37 CFR 1.497(a) (which is set forth in full in MPEP section 1893.01(e)), the Rule 4.17(iv) declaration takes the place of a declaration filed under 37 CFR 1.497 only if the Rule 4.17(iv) declaration is "in compliance with" 37 CFR 1.497. Because the Rule 4.17(iv) declaration filed here is not in compliance with 37 CFR 1.497, such declaration cannot take the place of the oath or declaration required under 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The Rule 4.17(iv) declaration submitted herein is not acceptable under 37 CFR 1.497 based on the failure to properly identify the specification to which the declaration was directed.

The present application is **ABANDONED** for failure to file a proper response to the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 22 February 2007.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Abandonment (Form PCT/DO/EO/909).

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

[1] It is noted that the publication by the International Bureau of the international application with an indication that a Rule 4.17(iv) declaration was filed therein does not indicate that such declaration was in compliance with 37 CFR 1.497, as the International Bureau does not review such submissions for compliance with U.S. regulations.

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0 4 JAN 2008

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

In re Application of:
JENKINS, Martin, et al.
U.S. Application No.: 10/573,443
PCT No.: PCT/EP2003/050662
International Filing Date: 26 September 2003
Priority Date: None
Attorney's Docket No.: 016782-0355
For: CATALYTIC CONVERTER AND METHOD FOR MAKING SAME

DECISION

The petition for revival under 37 CFR 1.137(b) filed 26 December 2007 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned at midnight on 22 March 2007 due to applicants' failure to submit a proper response to the "Notification Of Defective Response" (Form PCT/DO/EO/916) mailed 22 February 2007. Such Notification required submission of an oath or declaration in compliance with 37 CFR 1.497.

On 28 September 2007, this Office mailed a Decision dismissing applicants' petition for acceptance of a previously filed declaration in satisfaction of the declaration requirement.

On 16 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909).

The present petition was accompanied by the applicable petition fee and the "required reply" in the form of an executed declaration in compliance with 37 CFR 1.497. In addition, the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply, November 13, 2006, until the filing of the instant petition, which is believed to be grantable, was unintentional," satisfying the requirement of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the present national stage application is appropriately granted.

• This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 December 2007.

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

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MICHEAL TOBIAS
1717 K STREET
SUITE 613
NW, WASHINGTON DC 20036

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Akira Taguchi et al :
Application No. 10/573,449 : DECISION ON PETITION
Filed: January 19, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1082/Hirose : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 18, 2008, 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 from appilcant Akria Taguchi that the applicant is 65 years of age or older as required under M.P.E.P. § 708.02.. Accordingly, the above-identified application has been accorded "special" status.

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 MPP 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 practitioner should note the Examiner sent an Office action dated 10/28/08 to the above address but the office letter was returned to the Office.**

Telephone inquiries concerning this decision should be directed to Newton Edwards at 571-272-6052, or in his absence to the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

CC: Michael Tobias
1629 K Street, N.W.
Suite 300
Washington DC 20006

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JAN 0 8 2007

OFFICE OF PETITIONS

LADAS & PARRY
5670 WILSHIRE BLVD, SUITE 2100
LOS ANGELES CA 90036-5679

In re Application of
KLAIMAN, et al.
Application No. 10/573,464
Filed: March 24, 2006
Attorney Docket No. B5930PCT6233716

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2006.

The request is **APPROVED**.

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

The request was signed by Mavis S. Gallenson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MOSHE KLAIMAN**
21/2 HA'ARAVA STREET
GEDERA, ISREAL 70700

cc: **BRIAN P. HOPKINS**
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/573,464	03/24/2006	Moshe Klaiman	B5930PCT6233716

CONFIRMATION NO. 9272

36716
LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

OC000000021883081

Date Mailed: 01/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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12 JAN 2007

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA VA 22314

In re Application of
KUWAHARA (Deceased)
Application No.: 10/573,483
PCT No.: PCT/JP03/13884
Int. Filing Date: 29 October 2003
Priority Date: None
Attorney Docket no.: KAS.074
For: SPRAY GUN

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's request under 37 CFR 1.42[1] filed in the United States Patent and Trademark Office (USPTO) on 24 March 2006.

On 24 March 2006, applicant filed a request for entry into the U.S. national stage under 35 U.S.C. 371(c) along with, *inter alia*, the basic national fee and declaration on behalf of the deceased sole inventor.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration executed by the legal representative for deceased inventor Hiroomi Kuwahara does not meet the requirements of 37 CFR 1.497(b). Although the declaration identifies Shigemi Kuwahara as the legal representative of deceased inventor Hiroomi Kuwahara, the declaration is defective because it does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

What is required is a declaration, identifying the sole inventor and executed by Shigemi Kuwahara, which identifies her as legal representative for deceased inventor Hiroomi Kuwahara. The declaration must provide legal representative's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration. See 37 CFR 1.497(b)(2).

---

[1] 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

The declaration by the legal representative for deceased inventor Hiroomi Kuwahara submitted on 24 March 2006 cannot be accepted as a proper declaration under 37 CFR 1.497(a) and (b) and 1.42 at this time.

Applicants are required to submit a new declaration executed by the legal representative for deceased inventor Hiroomi Kuwahara **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter 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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05 JUL 2007

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA VA 22314

In re Application of KUWAHARA (Deceased) Application No.: 10/573,483 PCT No.: PCT/JP03/13884 Int. Filing Date: 29 October 2003 Priority Date: None Attorney Docket no.: KAS.074 For: SPRAY GUN	:	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's request under 37 CFR 1.42[1] filed in the United States Patent and Trademark Office (USPTO) on 13 February 2007.

BACKGROUND

On 24 March 2006, applicant filed a request for entry into the U.S. national stage under 35 U.S.C. 371(c) along with, *inter alia*, the basic national fee and declaration on behalf of the deceased sole inventor.

On 12 January 2007, a decision was mailed indicating that the declaration executed by the legal representative for deceased inventor Hiroomi Kuwahara did not meet the requirements of 37 CFR 1.497(b).

On 13 February 2007, a newly executed declaration was submitted.

DISCUSSION

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 13 February 2007 is executed by the legal representative for deceased inventor Hiroomi Kuwahara and meets the requirements of 37 CFR 1.497(b). The

[1] 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

declaration identifies Shigemi Kuwahara as the legal representative of deceased inventor Hiroomi Kuwahara and states the country of citizenship, residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **13 February 2007.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 20, 2009

Michael Muczynski
Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606-6357

Patent No.: 7,541,814 B2
Application No.: 10/573,510
Inventor (s): Rik W. De Doncker, et al.
Issued: June 2, 2009
Title: **METHOD AND DEVICE FOR DETERMINING THE CHARGE OF A BATTERY**

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/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591
vt

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04 JAN 2008

ADE & COMPANY INC
PO BOX 28006
1795 Henderson Highway
Winnipeg MB
R2G 0P1

In re Application of	:	DECISION ON
Williams et al	:	
PCT No.: PCT/CA2004/001698	:	
Application No.: 10/573,571	:	
Int. Filing Date: 27 September 2004	:	PETITION UNDER
Priority Date: 25 September 2003	:	
Attorney's Docket No.: 85128-1202	:	
For: LIQUID HUMAN ... POLYETHYLENE GLYCOL	:	37 CFR 1.47(a) & 1.137(b)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) & 1.137(b)" filed on 04 December 2007. The $200.00 petition fee has not been paid in full.

BACKGROUND

On 27 September 2004, applicants filed international application PCT/CA2004/001698, which claimed priority of an earlier U.S. application filed 25 September 2003.

On 27 March 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 08 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" 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 2007, petitioner filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) accompanied, inter alia, an unexecuted Declaration.

DISCUSSION

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 that is a properly executed declaration by at least the signing joint inventors

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.

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. 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 item (2) of 37 CFR 1.47(a). However, items (1), (3)-(4) have 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, DR. Martin Williams has sufficiently demonstrated that a complete copy of the application papers were mailed to the non-signing inventor, Ashley Martin Williams, on October 1, 2007, and that he has refused to sign the required papers.

Regarding item (3), petitioner has not provided a statement of the last known address of the non-signing joint inventor.

Regarding item (4), has not provided an executed declaration signed by the signing joint inventors.

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) and 37 CFR 1.137(b) are 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 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

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

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

24 JUL 2008

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ALEXANDRIA, VA 22313-1450
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Ade & Company Inc
PO Box 28006
1795 Henderson Highway
Winnipeg MB R2G 0P1 CA CANADA

In re Application of	:	DECISION ON
Williams et al	:	
PCT No.: PCT/CA2004/001698	:	
Application No.: 10/573,571	:	
Int. Filing Date: 27 September 2004	:	PETITION UNDER
Priority Date: 25 September 2003	:	
Attorney's Docket No.: 85128-1202	:	
For: LIQUID HUMAN ... POLYETHYLENE GLYCOL	:	37 CFR 1.47(a) & 1.137(b)

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a) and 37 CFR 1.137(b)" filed on 04 April 2008. The petition fee of $200.00 has now been completely paid since the deficient amount has been charged to Deposit Account No.: 01-0310.

BACKGROUND

In a decision from this Office on 04 January 2008, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that items (1), (3)-(4) had not been satisfied.

On 04 April 2008, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a) and 37 CFR 1.137(b)" requesting reconsideration of the Office's decision of 04 January 2008 with respect to accepting the above application without the signature of Ashley Martin.

DISCUSSION

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.

Petitioner has now satisfied items (1), and (3)-(4) of 37 CFR 1.47(a). Petitioner had already satisfied item (2) of 37 CFR 1.47(a).

Regarding item (1), petitioner has now completely paid the petition fee of $200 under 37 CFR 1.17(g) because only $130.00 has been submitted.

Regarding item (3), petitioner has provided a statement of the last known address of the non-signing joint inventor.

Regarding item (4), has provided an executed declaration signed by the signing joint inventors on their behalf and on the behalf of the non-signing inventor Ashley Martin Williams.

Consequently, the petition does satisfy all the items under 37 CFR 1.47(a).

DECISION

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

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** without prejudice.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **04 April 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.

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

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

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ALEXANDRIA, VA 22313-1450
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24 JUL 2008

Ashley Martin Williams
A-56 Lindenshore Dr.
Winnipeg, Manitoba R3P 2N1
Canada

In re Application of
Williams et al
PCT No.: PCT/CA2004/001698
Application No.: 10/573,571
Int. Filing Date: 27 September 2004
Priority Date: 25 September 2003
Attorney's Docket No.: 85128-1202
For: LIQUID HUMAN ... POLYETHYLENE GLYCOL

Dear : Ashley Williams

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

Ade & Company Inc
PO Box 28006
1795 Henderson Highway
Winnipeg MB R2G 0P1 CA CANADA

17 JUN 2008

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Wenderoth, Lind & Ponack, L.L.P.
2033 K Street N. W.
Suite 800
Washington, D.C. 20006-1021

In re Application of
MORITANI et al.
U.S. Application No. 10/573,572
PCT No.: PCT/JP03/15935
Int. Filing Date: 12 December 2003
Priority Date: None
Attorney Docket No.: 2006_0147A
For: TEST EQUIPMENT OF ENGINE MOTORING

COMMUNICATION REGARDING SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to the declaration filed 27 March 2006, which is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 12 December 2003, applicant filed international application PCT/JP03/15935. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 23 June 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 June 2006.

On 27 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; a copy of the international application; a preliminary amendment; and 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.

The declaration submitted on 27 March 2006 was executed by Kimino Kikukawa as "legal representative" of deceased inventor, Yoshio Kikukawa. 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.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. Here, the declaration filed 27 March 2006 does not comply with 37 CFR 1.497(b)(2), discussed above, in that it does not include the citizenship of the legal representative, Kimino Kikukawa.

Because the declaration submitted does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.497 and 1.42.

CONCLUSION

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

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a). A proper response must include a new declaration in compliance with 37 CFR 1.497 executed by the legal representative and including all the required information discussed above.

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

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

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30 SEP 2008

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B.J. Sadoff
Nixon & Vanderhye P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	
Jacotot, et. al.	:	
Serial No.: 10/573,576	:	DECISION ON
PCT No.: PCT/FR2004/002422	:	PETITION
Int. Filing Date: 24 September 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 25 September 2003	:	
Attorney's Docket No.: BJS-1721-112	:	
For: PEPTIDES HAVING, FOR EXAMPLE, AN ANTIANGIOGENTIC ACTIVITY AND APPLICATIONS THEREOF IN THERAPEUTICS	:	

This decision is responsive to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) AND MPEP § 711.03(c)(I.)(A.)," filed 19 November 2007.

BACKGROUND

On 24 September 2004, applicants filed international application PCT/FR2004/002422, that claimed priority of an earlier French application which was filed 25 September 2003. Accordingly, the thirty-month period for filing a continuation application in the United States expired at midnight on 25 March 2006.

On 24 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a preliminary amendment, and the basic national fee. These papers were assigned U.S. Serial No. 10/573,576.

On 25 September 2006, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out 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) that indicated that applicant was required to file a translation, the CRF for the sequence listing, a statement indicating that the paper sequence listing and the CRF are identical, and an amendment directing entry of the sequence listing. The notice set a response period of two (2) months.

On 02 November 2006, applicant provided the translation and the amendment requesting entry of the sequence listing, the statement and the CRF.

On 14 June 2007, the USPTO mailed an error report for the sequence listing, along with a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916).

On 16 July 2007, applicant filed a new sequence listing.

On the 26 July 2007, an error report was generated for the sequence listing submitted 06 July 2007.

On 19 September 2007, a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was mailed to applicant indicating that applicant failed to respond to 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) mailed 25 September 2006.

On 19 November 2007, applicant filed the current petition indicating, *inter alia*, that the error report generated 26 July 2007 was not mailed to applicant so the abandonment was unavoidable. In the alternative, applicant stated that this petition could be construed as a petition to revive unintentional. This submission was accompanied by another sequence listing.

On 28 February 2008, the sequence listing, filed 19 November 2007, was accepted.

On 10 April 2008, a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903), and a "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" (Form PTO-327) were mailed to applicant.

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.

Applicant filed the required statement, a sequence listing in compliance which constituted a proper response to "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) and the proper petition fee.

Applicants argue that ..."the present application became abandoned due to the failure of the Patent Office to notify the applicants of the deficiency of the Sequence Listing filed July 16, 2007..." It should be noted that applicants did not file a proper response to 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), mailed 25 September 2006, in that the sequence listing was defective. Therefore, a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) was mailed on 14 June 2007, along with an error response indicating that the sequence listing was still not in compliance (confirmed on page 3 of applicants' arguments). In response to this Notification, applicant filed a third sequence listing on 16 July 2007. This sequence listing still was not in compliance. Therefore, applicant failed to properly respond to 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), and the application was abandoned. Applicant was not entitled to any further response time, or a further opportunity to fix the defect. The error report of 26 July 2007 should have been mailed with the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), as a courtesy to applicant. Therefore, the application was properly abandoned.

With respect to applicants' arguments regarding the amino acid "Xaa," applicants attention is drawn to 37 CFR 1.823(b) which requires applicant to provide specific information in identifier 223 when "Xaa" is used in a sequence. Applicant did not provide the required information.

CONCLUSION

For the above reasons, the "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" (Form PTO-327), mailed 10 April 2008, is hereby **VACATED**.

The petition under 37 CFR 1.137(b) is **GRANTED** without prejudice.

Applicants' deposit account **# 14-1140** will be **charged** the petition fee of **$1500**.

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.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
YAMAMTO, Tomoya et al. :
Application No. 10/573,577 : DECISION ON PETITION
Filed: March 24, 2006 : TO WITHDRAW
Attorney Docket No. **25613-000012/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 20, 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 no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANTHONY M. ZUPCIC**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :

YAMAMOTO, Tomoya et al. :
Application No. 10/573,577 : DECISION ON PETITION
Filed: March 24, 2006 : TO WITHDRAW
Attorney Docket No. **25613-000012/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 April 07, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Castellano on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated with the Customer Number 30593 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 February 11, 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
Petitions Examiner
Office of Petitions

cc: **TOMAYA YAMAMOTO**
CANON FINETECH INC.
5540-11 SAKATEMACHI
JOSO-SHI, IBARAKI 303-8503
JAPAN

cc: **ANTHONY M. ZUPCIC**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NY, NY 10112

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

0 1 OCT 2007

Sagres Discovery, INC.
Intellectual Property R-338
P.O. Box 8097
Emeryville CA 94662-8097

In re Application of	:	
MENDEZ, Michael, et al.	:	
Application No.: 10/573,610	:	DECISION
PCT No.: PCT/US04/31831	:	
Int. Filing Date: 27 September 2004	:	ON REQUEST UNDER
Priority Date: 25 September 2003	:	
Attorney's Docket No.: PP023360.0003	:	37 CFR 1.497(d)
For: RHO ANTIBODY AND TAG TO PURIFY CELL SURFACE PROTEINS	:	

This decision is in response to request under 37 CFR 1.48(A), filed in the United States Patent and Trademark Office on 21 May 2007. It has been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 27 September 2004, applicant filed international application PCT/US04/31831, claiming a priority date of 25 September 2003. The deadline for entry into the national stage in the United States was midnight on 27 March 2006.

On 27 March 2006, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 22 January 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors was required.

On 21 May 2007, applicant submitted a declaration of the inventors accompanied by a Request Under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add Craig Hokanson, as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied. Applicants provided a statement by Craig Hokanson, the processing fee and the consent of the assignee.

However, the declaration of the inventors is defective. Applicants have supplied a declaration composed of one page 1 of 2 and three pages of 2 of 2. Each page 2 lists the same inventors, but is separately executed. While it is acceptable for inventors to execute separate copies of a declaration, the complete declaration as executed by the inventor must be submitted to the Office. It is not acceptable to piece together pages from separately executed declarations to create a single composite declaration.

CONCLUSION

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

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: Christoph Willing	: DECISION ON REQUEST FOR
Patent Number	: 7655102	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

21 FEB 2007

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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.	:	
U.S. Application No.: 10/573,684	:	DECISION ON PAPERS
PCT No.: PCT/JP2004/015752	:	SUBMITTED UNDER
International Filing Date: 18 October 2004	:	37 CFR 1.42
Priority Date: 16 October 2003	:	
Attorney's Docket No.: 2006_0401A	:	
For: ENCRYPTED COMMUNICATION SYSTEM AND COMMUNICATION DEVICE	:	

This decision is issued in response to the 04 January 2007 submission of a declaration executed on behalf of deceased inventor Masato YAMAMICHI by his heirs Masami YAMAMICHI, Satomi YAMAMICHI, and Keiko YAMAMICHI, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 27 March 2006, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee and a declaration executed by the three surviving inventor's and on behalf of deceased inventor Masato YAMAMICHI by his heirs Masami YAMAMICHI, Satomi YAMAMICHI, and Keiko YAMAMICHI.

On 04 January 2007, applicants filed a revised declaration executed by the surviving inventors and on behalf of the deceased inventor by his heirs. The revised declaration includes information that was not present in the original declaration, specifically, the citizenship of the deceased inventor. This declaration is considered herein under 37 CFR 1.42 and 1.497.

DISCUSSION

Pursuant to 37 CFR § 1.42:

> "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."

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

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

> (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.

The original declaration filed herein on 27 March 2006 did not include the citizenship of the deceased inventor Masato YAMAMICHI and therefore was not acceptable under 37 CFR 1.497(a)(3).

The revised declaration submitted on 04 January 2007 identifies the deceased inventor and states the inventor's country of citizenship, as required for compliance with 37 CFR 1.497(a)(3). The declaration also indicates the relationship to the deceased (i.e., "heir") of the persons signing on behalf of the deceased inventor, and it provides the heirs' country of citizenship, residence, and mailing address, as required by 37 CFR 1.497(b)(2). In addition, applicants have provided a statement from counsel confirming that the heirs who signed the declaration are "all the heirs of the deceased inventor."

The submission of the declaration executed by all the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Masato YAMAMICHI is **GRANTED**.

Deposit Account No. 23-0975 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 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 04 January 2007.

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

17 APR 2006

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P.O. Box 19928
Alexandria, VA 22320

In re Application of:	:	
FLEURY, Sylvain, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/573,704	:	REVIVAL OF ABANDONED
PCT No.: PCT/IB2004/002433	:	APPLICATION UNDER
International Filing Date: 29 July 2004	:	37 CFR 1.137(b)
Priority Date: 30 July 2003	:	
Attorney's Docket No.: 122481	:	
For: NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES	:	

The petition for revival under 37 CFR 1.137(b) filed 27 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing this U.S. National Stage Application from its due date until the filing of this grantable petition 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 requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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

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0 8 JUN 2007

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P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of	:	
FLEURY, Sylvain et al.	:	
Application No.: 10/573,704	:	
PCT No.: PCT/IB04/02433	:	DECISION ON
Int. Filing Date: 29 July 2004	:	
Priority Date: 30 July 2003	:	PETITION
Attorney's Docket No.: 122481	:	
For: New Soluble And Stabilized Trimeric Form Of GP41 Polypeptides	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed 27 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Pierre-Francois Serres. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 29 July 2004, applicants filed international application PCT/IB04/02433, claiming a priority date of 30 July 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 30 January 2006.

On 27 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 and a petition to revive the instant application under 37 CFR 1.137(b).

On 17 April 2006, the Office mailed the "Decision on Petition For Revival of Abandoned Application Under 37 CFR 1.137(b)," granting applicants' request to revive the instant application.

On 31 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that, an oath or declaration and a surcharge for filing the oath and declaration later than 30 months from the priority date, must be filed. The notification set a two-month time limit in which to respond.

On 27 February 2007 applicant filed the present petition accompanied, *inter alia*, by a petition fee, a four-month extension fee, an oath executed by inventors Sylvain Fleury, Marc Girard, Marie-Gaelle Roger and Nicolas Mouz and, a declaration by Mr. Christian Rochet.

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 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 evidence submitted to show that inventor Pierre-Francois Serres has refused to sign is insufficient. The declaration of Mr. Christian Rochet does not appear to indicate that non-signing inventor Pierre-Francois Serres has been presented with a copy of the application papers, including the claims. Although the evidence submitted shows that non-signing inventor Pierre-Francois Serres has certain grievances against his former employer (see copy of July 24, 2006 response letter from non-signing inventor Pierre-Francois Serres to Fradin, Tronel, Sassard & Associates), the evidence does not indicate that non-signing inventor Pierre-Francois Serres was presented with a complete copy of the application, including the claims. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, claims, drawings, and oath or declaration) to the non-signing inventor for signature. Copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., which support a finding that a complete copy of the application papers had been sent to the applicant should be made a part of the declaration or affidavit.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Pierre-Francois Serres, is **DISMISSED** without prejudice.

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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

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ALEXANDRIA, VA 22320

In re Application of:	: DECISION ON
FLEURY, Sylvain et al.	:
Application No.: 10/573,704	: RENEWED
PCT No.: PCT/IB04/02433	:
Int. Filing Date: 29 July 2004	: PETITION
Priority Date Claimed: 30 July 2003	:
Atty Docket No.: 122481	: UNDER
For: NEW SOLUBLE AND STABILIZED TRIMERIC	:
FORM OF GP41 POLYPEPTIDES	: 37 CFR 1.47(a)

This is in response to applicant's "Renewed Petition to Accept Application Under 37 CFR 1.47(a)" filed 08 August 2007.

BACKGROUND

On 29 July 2004, applicants filed international application PCT/IB04/02433, claiming a priority date of 30 July 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 30 January 2006.

On 27 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 and a petition to revive the instant application under 37 CFR 1.137(b).

On 17 April 2006, the Office mailed the "Decision on Petition For Revival of Abandoned Application Under 37 CFR 1.137(b)", granting applicants' request to revive the instant application.

On 31 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that, an oath or declaration and a surcharge for filing the oath or declaration later than 30 months from the priority date, must be filed. The notification set a two-month time limit in which to respond.

On 27 February 2007, applicant filed a petition under 37 CFR 1.47(a) accompanied by, *inter alia*, a petition fee, a four-month extension fee, an oath executed by inventors Sylvain Fleury, Marc Girard, Marie-Gaelle Roger and Nicolas Mouz, and a declaration by Mr. Christian Rochet.

On 08 June 2007, a decision dismissing the 27 February 2007 petition was mailed indicating that the petitioner had failed to sufficiently demonstrate that non-signing inventor Pierre-Francois Serres was presented with a complete copy of the application, including the claims.

On 08 August 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

Petitioner has previously satisfied items (1)-(3) above.

With regard to item (4) above, applicants filed the renewed petition considered herein. The renewed petition includes a declaration of Christian Rochet that states Pierre-Francois SERRES was sent "a complete copy of the application papers (specification, claims, and drawings along with Declaration/Power of Attorney and Assignment documents)". This satisfies the outstanding requirement for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

For 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 29 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 February 2007.

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

This application is being forwarded to the United Staes Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3285
Facsimile: (571) 273-0459

0 1 OCT 2007

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Pierre-Francois Serres
9 Allee Euphrosyne
69230 St Genis Laval, France

In re Application of FLEURY, Sylvain et al.
U.S. Application No.: 10/573,704
PCT No.: PCT/IB04/02433
Int. Filing Date: 29 July 2004
Priority Date Claimed: 30 July 2003
For: NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES

Dear Pierre-Francois Serres

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. 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.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3285
Facsimile: (571) 273-0459

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320
Attorney Docket No.: 122481

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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 one of the joint inventors. 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 (Pierre-Francois Serres) 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/IB04/02433 and was filed on 29 July 2004 in the name of Mymetics Corporation for the invention entitled "NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES". The national stage application number is 10/573,704 and has a date of 27 February 2007 under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).

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18 SEP 2007

Patent Services Department
Cooper Cameron Corporation
P.O. Box 1212
Houston, TX 77215-1212

In re Application of	:	
DELVES, et al.	:	DECISION ON PETITION
Application No.: 10/573,716	:	
PCT No.: PCT/GB04/04145	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 28 September 2004	:	
Priority Date: 29 September 2003	:	
Atty Docket No.: DPS-030810	:	
For: APPARATUS FOR ENHANCING SOLUBILITY	:	

This decision is in response to the "Petition In Support of Application Filed Under 37 CFR §1.47(b) And Fees Under 37 CFR §1.17(g)" filed 16 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 September 2004, applicant filed international application PCT/GB04/04145, which claimed a priority date of 29 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, 29 March 2006.

On 28 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and a first preliminary amendment.

On 27 November 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an 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 16 April 2007, applicant responded with the present petition accompanied by a petition for a three-month extension of time. With the filing of the petition for three-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 all six items.

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

Regarding item (2), applicant has provided evidence that complete sets of the application papers were mailed to the inventors and to date executed oaths or declarations have not been returned.

As to item (3), applicant has supplied the last known addresses of the non-signing inventors.

Regarding item (4), applicant has filed a declaration executed by Mr. Manish B. Vyas, an authorized agent for the assignee KCC Group Limited. The declaration complies with 37 CFR 1.497(a)-(b) in that the declaration provides the relationship of Mr. Vyas to the non-signing inventors. In addition, applicant has provided exhibits making clear the authority of Mr. Vyas to executed documents on the behalf of KCC Group Limited.

As to item (5), applicant has provided, pursuant to MPEP 409.03 (f), a legal memorandum from Mr. Noel Akers, a chartered patent attorney in the subject jurisdiction. The memorandum is accompanied by a copy of the relevant patent statute. In addition, the memorandum includes an analysis of the facts specific to the above-captioned application. These facts are made of record from the accompanying declaration of Mr. Paul W. Webb.

Regarding item (6), applicant has shown that the granting of the present petition is necessary to preserve the rights of the parties or to prevent irreparable damages.

As such, it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **GRANTED.**

The application has an international filing date of 28 September 2004 under 35 U.S.C. 363, and will be given a date of **16 April 2007** under 35 U.S.C. 371 (c).

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

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 06/22/2010

Applicant	: Eiji Muramatsu	: DECISION ON REQUEST FOR
Patent Number	: 7636282	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **852** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

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OCT 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,492,468 :
Issue Date: February 17, 2009 :
Application No. 10/573,763 : ON PETITION
Filed: June 29, 2006 :
Attorney Docket No. 20041046 :

This is a decision on the petition filed July 23, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of :
Kantaro Yoshimoto, et al. :
Application No. 10/573,768 : DECISION ON PETITION
Filed: March 21, 2006 :
Attorney Docket No. NNA-223-B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before May 21, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 21, 2009. Accordingly, the date of abandonment of this application is August 22, 2009.

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

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 2600

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TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of
Shigeo Yoshida
Application No. 10/573,774
Filed: March 28, 2006
For: **METHOD AND APPARATUS FOR POWER LINE COMMUNICATION**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 15, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Osamu Yoshitake	: DECISION ON REQUEST FOR
Patent Number	: 7582364	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **473** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : **2/10/09**

TO SPE OF : ART UNIT **3747 (3700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/573,788** Patent No.: **7,350,499**
Attn: Noah Kamen

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)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____

_____

_____

_____

/Michael Cuff/ SPE, AU 3741

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01 NOV 2006

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
TAKIGUCHI et al	:	
Application No.: 10/573,789	:	
PCT No.: PCT/JP2004/017643	:	
Int. Filing Date: 19 November 2004	:	DECISION
Priority Date: 21 November 2003	:	
Attorney Docket No.: 03500103819	:	
For: LIGHT-EMITTING DEVICE, ORGANIC COMPOUND AND DISPLAY	:	

The decision is in response to applicants' "PETITION UNDER 37 C.F.R. § 1.182" filed in the USPTO on 21 April 2006.

BACKGROUND

On 19 November 2004, applicants filed international application PCT/JP2004/017643 which designated the United States and claimed a priority date of 21 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2006 (21 May 2006 being a Sunday).

On 28 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, an assertion of small entity status, and a declaration of inventors.

On 21 April 2006, applicants submitted the instant "PETITION UNDER 37 C.F.R. § 1.182", which was accompanied by a declaration of Minako Nakasu.

DISCUSSION

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

The petition fee has been paid.

With regard to item (2), the declaration of Minako Nakasu is an affidavit setting forth that the change of name was effected by marriage and is signed with both names–Minako Kurokawa and Minako Nakasu. The affidavit is accepted.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

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

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25 JUL 2008

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of:
SUZUKI, Koichi, et al.
U.S. Application No.: 10/573,794
PCT No.: PCT/JP2004/014544
International Filing Date: 27 September 2004
Priority Date: 29 September 2003
Atty Docket No.: 2006_0470A
For: ROYAL JELLY PEPTIDE AND COMPOSITION CONTAINING SAME

DECISION ON PETITION

The present decision is issued in response to the "Petition Under 37 CFR 1.137(b) For Revival Of Unintentionally Abandoned Patent Application" filed 07 March 2008, and supplemented on 13 June 2008. Applicants have submitted the required petition fee.

BACKGROUND

On 27 September 2004, applicants filed international application PCT/JP2004/014544. The application claimed a priority date of 29 September 2003, and it designated the United States. On 07 April 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for entry into the U.S. national stage and submission of the basic national fee was thirty months from the priority date, i.e., 29 March 2006.

On 28 March 2006, applicants filed materials to initiate the U.S national stage of international application PCT/CA2005/000547 including, among other materials, payment of the basic national fee and a translation of the international application into English.

On 02 June 2006, applicants submitted 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.

On 29 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) requiring submission of appropriate sequence listing materials.

On 28 February 2007, applicants filed sequence listing materials in response to the Form PCT/DO/922.

On 23 April 2007, the DO/EO/US mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the sequence listing materials filed by applicants on 28 February 2007 were defective.

On 23 May 2007, applicants filed sequence listing materials in response to the Form PCT/DO/EO/916.

On 12 September 2007, the DO/EO/US mailed a second "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the sequence listing materials filed by applicants on 23 May 2007 were defective. The Notification afforded applicants one month to file a proper response, and it indicated that the one month response period could not be extended pursuant to 37 CFR 1.136(a).

A timely response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007 was not submitted. Accordingly, the present application became abandoned based on applicants' failure to file a timely and proper response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007.

On 07 March 2008, applicants filed the "Petition Under 37 CFR 1.137(b) For Revival Of Unintentionally Abandoned Patent Application" considered herein, accompanied by revised sequence listing materials.

On 13 June 2008, after having been informed that the Computer Readable Form (CRF) of the sequence listing filed with the petition for revival could not be located, applicants filed a supplement to the petition that included a copy of the previously filed CRF and a return postcard confirming that the CRF was included with the petition materials filed 13 June 2008.

DISCUSSION

The present petition for revival was accompanied by payment of the required petition fee. The petition was also accompanied by the "required reply" in the form of a proper response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007, that is, acceptable sequence listing materials, including a CRF of the sequence listing in acceptable form.

The petition includes a statement that: "Applicants attest that the entire delay in filing this required reply from August 29, 2007 until today was unintentional. Therefore, Applicants note that this was an unintentional abandonment." This statement is accepted as satisfying the requirement of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the application is appropriately granted.

CONCLUSION

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

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 June 2006.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,821	03/28/2006	Kazuaki Okuno	47259-5001-00 (223490)	9193

55694 7590 10/13/2009

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

EXAMINER	
SWOPE, SHERIDAN	

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
10/13/2009	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.

Commissioner for Patents
United States Patent and Trademark Office
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OCT 1 3 2009

Brian K. Lathrop
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of	:
Okuno et al.	:
Serial No.: 10/573,821	:DECISION ON PETITION
Filed: 28 March 2006	:
Attorney Docket No.: 47259-5001-00-US (223490)	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 14 September 2009.

BACKGROUND

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

The examiner mailed first and second lack of unity determinations on 22 May, 2008 and 16 January 2009, respectively. These have both been vacated from the file.

On 2 February 2009, the examiner required applicants to elect from the following species:

> The species are as follows:
>
> (A) The proteases with one of the specific amino acid residue at the 97th position, as listed in Claims 1 and 12-17, for example.
>
> (B) The cleavage motifs from the group consisting of the motifs described in Claims 1-9, 11-24, and 26-35. (It is noted that because SEQ ID NO: 12 encompasses SEQ ID NO: 11, no election of species would be required between SEQ ID NO: 11 and 12.)

From this species election requirement, it appears that applicant would be permitted to elect one protease and one cleavage motif. The examiner then indicated

> Claims 1 and 12 are generic to the protease species.
>
> Claims 1 and 12 are generic to the cleavage motif species.

On 3 April 2009, applicants replied as follows:

> **Election with Traverse**
>
> For Group (A), Applicants elect the embodiment where the 97th amino acid is Met, *i.e.*, methionine (claim 13). For Group (B), Applicants elect the embodiment where the cleavage motif is SEQ ID NO: 12 (claim 11). Applicants elect **WITH TRAVERSE**.

On 14 May 2009, the examiner considered the traversal and made the restriction requirement FINAL. Claims 1-11, 13, 14, 17-22, 24, 25, 28-35 were with drawn from consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected inventions, there being no allowable generic of linking claims. Claims 12, 15, 16, 23, 26 and 27 were examined as follows:

> Claims 12, 15, 16, 23, 26 and 27 were objected to for reciting non-elected subject matter. Claims 12, 15, 16, 23, 26 and 27 were rejected under 35 USC 101 and 35 USC 112, 1st and 2nd paragraphs.

On 14 September 2009, applicants filed a response to the Office action along with this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered, with respect to the claims as currently pending.

Before turning to the merits of the petition, a few irregularities are noted in the prosecution history.

This national stage filing is entitled to PCT Unity of Invention practice with regard to any restriction or election of species requirement. However, the examination of a national stage filing must comport with US practice per 35 USC 372(a),

> All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent and Trademark Office.

First, when the Office requires an election of species, generic claims which encompass the elected *must* be examined with the elected species. See MPEP 809.

> Linking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions). 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.* (emphasis added)

In the third and latest restriction requirement, the examiner indicated that Claim 1 and 12 were generic to the species and yet, then withdrew claims 1 and 12 from examination in the next Office action. This is not correct.

Second, when the Office requires an election of species, the elected species must then be examined. The examiner cannot make or change an election, per MPEP 818.03.

> Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

On 3 April 2009, applicants clearly elected the embodiments of Claim 11 and Claim 13.

> **Election with Traverse**
>
> For Group (A), Applicants elect the embodiment where the 97th amino acid is Met, *i.e.*, methionine (claim 13). For Group (B), Applicants elect the embodiment where the cleavage motif is SEQ ID NO: 12 (claim 11). Applicants elect **WITH TRAVERSE**.

Yet on 14 May 2009, the examiner withdrew the claims 11 and 13 from examination as being directed to a non-elected invention and then examined other claims on the merits.

> Claims 1-35 are pending. Claims 1-11, 13, 14, 17-22, 24, 25, and 28-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Claims 12, 15, 16, 23, 26, and 27 are hereby examined.

This is not correct. The Office does not have the authority to elect an invention or a species for examination which is different from that elected by applicants.

Third, MPEP 808.01(a) sets forth the following guidance concerning election of species practice:

> **Election of species should not be required between claimed species that are considered clearly unpatentable (obvious) over each other.** In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other. (emphasis in original)

In the third and latest restriction requirement, the examiner clearly indicated on the record that no election of species was required between SEQ D No 11 and SEQ ID No 12:

> (B) The cleavage motifs from the group consisting of the motifs described in Claims 1-9, 11-24, and 26-35. (It is noted that because SEQ ID NO: 12 encompasses SEQ ID NO: 11, no election of species would be required between SEQ ID NO: 11 and 12.)

Applicant then elected SEQ ID No 12, which meant that claims to SEQ ID No 11 and SEQ ID No 12 should have been examined together. However, of the subset of claims which the examiner elected for examination, Claim 26 (directed to SEQ ID No 12) was examined while Claim 25 (directed to SEQ ID No 11) was withdrawn from consideration.

> Claim 25. (Withdrawn-Currently Amended) The ~~method~~ process of claim 12, wherein the amino acid sequence from the P5 to P1 positions of the desired cleavage site in the polypeptide or the fusion protein is Arg-Arg-Arg-Ala-Arg (SEQ ID NO: 11).

> Claim 26. (Currently Amended) The ~~method~~ process of claim 12, wherein the amino acid sequence from the P7 to P1 positions of the desired cleavage site in the polypeptide or the fusion protein is Asp-Ala-Arg-Arg-Arg-Ala-Arg (SEQ ID NO: 12).

This is not consistent with the election of species requirement. An alignment of SEQ ID No 11 and 12 illustrates that SEQ ID No 11 is a nested fragment of examined SEQ ID No 12 which should have been searched and examined along with the elected species of SEQ ID No 12:

```
SEQ ID No 11                Arg-Arg-Arg-Ala-Arg
SEQ ID No 12        Asp-Ala-Arg-Arg-Arg-Ala-Arg
```

Fourth, both the examiner and applicants appear, in places, to have confused the two separate requirements to elect one of the proteases and one of the motifs with a requirement to elect either a protease or a motif. A requirement to elect *either* a protease *or* a motif would be inconsistent with International Search and Preliminary Examination Guidelines because both features are requirement by the claimed method of using a protease to cleave a protein which has a motif site. ISPE Guidelines Paragraph 10.17 states:

> "The structural element may be a single component or a combination of individual components linked together."

Fifth, the Office action mailed 14 May 2009 is incomplete for not only withdrawing claim 1 from examination and also for indicating that the "teachings of Okuno anticipate claim 1" because there is no corresponding rejection made under 35 USC 102 in the Office action.

If Okuno cannot be used in a rejection under 35 USC 102 or 103, then guidance in PCT International Search and Examination Guidelines, Paragraph 10.08 applies

> 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. Similar considerations apply in the case of a genus/species or combination/subcombination situation.

In a genus/species situation such as this, if the independent generic claim is free of the prior art, unity is present. The absence of any prior art rejection on the independent generic claims points towards unity of invention being present amongst the species.

In view of these inconsistencies, the third restriction requirement and resulting first Office action on the merits have created confusion such that the Office has not established a clear record as required by MPEP 814, which states:

> The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

Turning now to the merits of the petition, applicants requests that

> (1)(a) the objection over unity of invention should be withdrawn or
> (1)(b) the Office should apply Okuna reference under 35 USC 102
> (2) Claim 12 be considered a proper Markush group within PCT rules.
> (3) Claim 1 be considered a proper Markush group within PCT rules.
> (4) The objection of claims 12, 15, 16, 23, 26 and 27 for reciting non-elected subject matter should be withdrawn

Items(1)(a) and (1)(b) have been discussed above.

Turning to Items (2) and (3), Applicants request reconsideration and re-evaluation of claim 1 and 12 with regard to whether they contain a proper Markush Group. Claims 1 and 12 are directed to a method of using structurally and functionally related OmpT proteases.

Claim 1. (Withdrawn-Currently Amended) A process for cleaving a polypeptide comprising the steps of:

(1) providing a polypeptide comprising arginine or lysine at the P1 position of a desired cleavage site, an amino acid other than aspartic acid, glutamic acid or proline at the P1' position, and a single basic amino acid[[.]] or two or three consecutive basic amino acids situated at any site in the amino acid sequence from the P10 position to the P3 position or from the P3' position to the P5' position, ~~(with the proviso that a single basic amino acid is not situated at the P6 or P4)~~ wherein, if there is only a single basic amino acid situated in the amino acid sequence from the P10 position to the P3 position, the single basic amino acid is situated at a position other than the P6 or the P4 position; and

(2) cleaving the polypeptide with *E. coli* OmpT protease.

Claim 12. (Currently Amended) ~~A polypeptide cleavage method characterized by~~ A process for cleaving a polypeptide comprising cleaving a desired cleavage site of a polypeptide or a fusion protein using an *E. coli* OmpT protease 97th amino acid variant to produce a target peptide, wherein the 97th amino acid from the N-terminus of the OmpT protease is alanine, leucine, phenylalanine, methionine, serine, threonine, cysteine, asparagine, glutamine, glutamic acid or histidine.

The PCT International Search and Examination Guidelines, provide a series of examples which pertain to unity among biotechnology inventions. Although none of the biotechnology examples are directed to unity amongst process claims, Example 33 addresses unity amongst other multiple structurally and functionally related products, relevant portions set forth below.

10.53 *Example 33: Multiple Structurally and Functionally Related Polynucleotides*

Claim 1: An isolated polynucleotide selected from the group consisting of the nucleotide sequences SEQ ID NOs: 1-10.

> The polynucleotides of claim 1 would be regarded as having the same or corresponding technical feature if the alternatives had a common property or activity, and shared a significant structural element that is essential to the common property or activity. Some Offices may regard claim 1 as a Markush grouping.
>
> In this example, the description discloses that SEQ ID NOs:1-10 share a common property, that is, expression of an mRNA present only in patients afflicted with disease Y. Moreover, SEQ ID NOs: 1-10 share a significant structural element that is essential to the common property, i.e., a probe comprising the shared structural element can detect the mRNA of patients afflicted with disease Y. Since both of these requirements are met, the group of polynucleotide molecules claimed meets the requirement of unity of invention (*a priori*).

Here, applicants are correct that the proteases share a common property or activity (cleaving peptides comprising the motif) and a significant structural element (OmpT protease) essential to that common property or activity. Unity of invention exists amongst the proteases and cleavage motifs.

Finally, applicants are correct that (4) the objection of claims 12, 15, 16, 23, 26 and 27 for reciting non-elected subject matter should be withdrawn. 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.

DECISION

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

The election of species requirement mailed 2 February 2009 has been withdrawn.

The Office action mailed 14 May 2009 has been withdrawn.

The objection of claims 12, 15, 16, 23, 26 and 27 for reciting non-elected subject matter is withdrawn.

Claims 1-35 will be examined together.

The application will be forwarded to the examiner for consideration of the papers filed 14 September 2009 and for preparation of an Office action consistent with this decision.

Because the extensive delays in initiating prosecution on the merits in this application, the next Office action will be reviewed by the Supervisory Patent Examiner prior to mailing, per MPEP 707.02 second paragraph.

"The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution."

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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

Mail Date: 04/21/2010

Applicant	: Valeria D'Amico	: DECISION ON REQUEST FOR
Patent Number	: 7606334	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **806** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/573,830	03/29/2006	Valeria D'Amico	09952.0029	9912

22852 7590 05/13/2010

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

EXAMINER	
TRAN, KHAI	

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
05/13/2010	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100510

DATE : May 10, 2010

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,606,334

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

14 JUL 2006

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Ladas & Parry
26 West 61st Street
New York, NY 10023

In re Application of
VAN DONGEN, Charles Cornelus
Application No.: 10/573,860
PCT No.: PCT/AU04/00335
Int. Filing Date: 18 March 2004
Priority Date: 18 March 2003
Docket No.: U 016157-1
For: IMPROVEMENTS IN THE DESIGN OF ELECTROSTATIC LOUDSPEAKERS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 28 March 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. 12-0425, 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 28 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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SHUMAKER & SIEFFERT, PA
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :
Takamitsu Saito, et al. :
Application No. 10/573,861 :
Filed: March 27, 2006 :
Attorney Docket No. 1085-013US01 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 1, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Shumaker & Sieffert has been revoked by the assignee of the patent application on February 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The Associate Power of Attorney filed with the petition on June 9, 2006, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: GLOBAL IP COUNSELORS
1233 TWENTIETH STREET NW
SUITE 700
WASHINGTON, DC 20030

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Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

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SEP 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Lutz Schweiger et al. :
Application No. 10/573,882 : DECISION ON PETITION
Filed: July 19, 2006 : TO WITHDRAW
Attorney Docket No. BJS-620-431 : 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 26, 2007.

The request is **NOT APPROVED**.

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

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, ***instructions of assignee***, do not meet any the conditions set forth in 37 CFR 10.40.

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

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Foley & Lardner LLP**
Suite 500
3000 K Street NW
Washington, DC 20007

29 JAN 2008

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BINGHAM MCCUTCHEN LLP
Three Embarcadero Center
San Francisco CA 94111-4067

In re Application of	:	
WARD-ASKEY, et al.	:	
Application No.: 10/573,887	:	DECISION ON PETITION
PCT No.: PCT/GB04/04161	:	
Int. Filing Date: 29 September 2004	:	UNDER 37 CFR 1.181
Priority Date: 30 September 2003	:	
Attorney Docket No.: 3004535-7049128001	:	
For: IMPROVEMENTS IN THERMAL PAPER	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 16 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 September 2004, applicant filed international application PCT/GB04/04161, which claimed priority of an earlier application filed 30 September 2003. A copy of the international application was transmitted from the International Bureau (IB) on 14 April 2005. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 March 2006.

On 29 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an Information Disclosure Statement.

On 21 February 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response.

On 16 November 2007, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 21 February 2007 within the time period set therein and that above-identified application was abandoned as to the United States.

On 16 January 2008, applicant filed the present petition to withdraw the holding of

abandonment arguing that a response had been filed on 23 April 2007.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 23 April 2007. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Executed Combined Declaration and Power of Attorney" The receipt is stamped "OIPE IAP56 Patent & Trademark Office APR 23 2007" The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration on 23 April 2007 and it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/909 mailed 16 November 2007 is hereby **VACATED**.

The application has an international filing date of 29 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).

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 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Paolo Boschetti Sacco	: DECISION ON REQUEST FOR
Patent Number	: 7618235	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/573,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **502** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Michael Brines	: DECISION ON REQUEST FOR
Patent Number	: 7645733	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,905	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,622,571	: DECISION ON REQUEST
Baseman et al.	: FOR
Issue Date: 11/24/2009	: RECONSIDERATION OF
Application No. 10/573909	: PATENT TERM ADJUSTMENT
Filed: 01/08/2007	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
9790-10	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 2010, 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 four hundred thirty-nine (439) 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 four hundred forty (440) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred forty (440) days is **GRANTED to the extent indicated herein.**

The "B" delay period is 235 days, not 234 days, as indicated by patentees. This application was filed pursuant to 35 U.S.C. 371(b), and the national stage commenced on April 3, 2006. On November 24, 2009, the application issued as U.S. Patent No. 7,622,571. Thus, "B" delay is 235 days, counting the number of days beginning on April 4, 2009, the day after the date three years after the national stage commenced, and ending on November 24, 2009, the date the patent issued.

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred forty (440)** days.

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

D Wood

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 : 7,622,571 B2

DATED : **Nov. 24, 2009** **DRAFT**

INVENTOR(S) : Baseman 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 205 days.

Delete the phrase "by 205 days" and insert – by 440 days--

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VALLEY FORGE, PA 19482

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Tachibana et al :
Application No. 10/573,935 : ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. MAT-8825US

This is a decision on the petition, filed January 16, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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BRYAN CAVE POWELL GOLDSTEIN
ONE ATLANTIC CENTER FOURTEENTH FLOOR
1201 WEST PEACHTREE STREET NW
ATLANTA GA 30309-3488

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
YANAGIMOTO, Osamu :
Application No. 10/573,940 : DECISION ON PETITION
Filed: March 30, 2006 : TO WITHDRAW
Attorney Docket No. **143961.00005** : 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 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Charles L. Warner on behalf of all attorneys of record who are associated with customer No. 25207. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Osamu Yanagimoto at the address indicated below.

There is an outstanding Office action mailed October 31, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OSAMU YANAGIMOTO**
4-6, MITSUGAOKA 2-CHOME
NISHI-KU, KOBE-SHI-HYOGO, 651-2228
JAPAN

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Paul Arthur Engels et al :
Application No. 10/573,946 : DECISION ON PETITION
Filed: March 29, 2006 :
Attorney Docket No. 903-185 PCT/US :

This is a decision on the petition under 37 CFR 1.182, filed November 28, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Patent Publication.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/573,946	03/29/2006	3636	750	903-185 PCT/US	5	1

CONFIRMATION NO. 1760

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

CORRECTED FILING RECEIPT

OC000000027752163

Date Mailed: 01/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. 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)

Paul Arthur Engels, Al Sanipoort-Noord, NETHERLANDS;
Joannes Henricus Maria de Kroon, Doornspijk-T Harde, NETHERLANDS;
Gaston Lionel van Amerongen, Maarssen, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number 23869

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/NL04/00610 09/02/2003

Foreign Applications

NETHERLANDS 1024413 09/30/2003

If Required, Foreign Filing License Granted: 08/22/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/573,946**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

HEIGHT-ADJUSTABLE WORK CHAIR

Preliminary Class

297

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

Mail Date: 04/21/2010

Applicant	: Joseph Da Cruz	: DECISION ON REQUEST FOR
Patent Number	: 7661955	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,986	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **305** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 JAN 2007

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Mathew L. Schneider
Buchanan, Ingesoll & Rooney PC
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of: Massao Jinno et al.	:	
Application No.: 10/573,991	:	
PCT Application No.: PCT/JP04/014707	:	DECISION ON COMBINED
Int. Filing Date: 29 September 2004	:	DECLARATION AND
Priority Date Claimed: 30 September 2003	:	POWER OF ATTORNEY
Attorney Docket No.: 1018961-000077	:	
For: Centrifuging Setting Tube and Organic Cell Collection Tube.		

This is in response to the Combined Declaration/Power of Attorney filed 29 September 2006, wherein the second inventor, Tamotsu Inoue, is indicated as deceased, and a Legal Representative, Futoshi Inoue, for the deceased inventor executed the Combined Declaration/Power of Attorney for and on behalf of the deceased inventor. The Combined Declaration/Power of Attorney does not meet the requirement of 37 CFR 1.497(a)(3).

37 CFR 1.497(a)(3) requires that the declaration "identifies each inventor and the country of citizenship of each inventor". The Application Data Sheet (ADS) filed on 29 September 2006, with the request, discloses the name and citizenship of the deceased inventor. The naming of the inventors and the setting forth of the citizenship of each inventor must be provided in the oath or declaration, even if this information is provided in the ADS. See MPEP 601.05, Rev. 05 August 2006, p. 600- 26, right column, paragraph 2.

The Notice of Acceptance of the Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 12 January 2007 is hereby VACATED.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905), which should indicate a new oath or declaration must be submitted.

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

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

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06 JUL 2007

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

In re Application of	:	DECISION ON RENEWED
Massao Jinno et al	:	
PCT No.: PCT/JP04/014707	:	
Application No.: 10/573,991	:	
Int. Filing Date: 29 September 2004	:	PAPERS FILED
Priority Date: 30 September 2003	:	
Attorney's Docket No.: 1018961-000077	:	
For: CENTRIFUGING SETTING TUBE ...	:	
COLLECTION TUBE.	:	UNDER 37 CFR 1.42

This is a decision on the papers filed 12 April 2007, which has been treated as a second renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this Office on 23 January 2007, the request filed on 29 September 2006 was dismissed. The decision stated that declaration was improperly executed.

On 12 April 2007, applicants filed the present renewed submission under 37 CFR § 1.42 accompanied with a properly executed declaration.

DISCUSSION

The renewed submission includes, a newly executed declaration that identifies each inventor and the country of citizenship of each inventor and this information is also provided for the legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continue processing and indicating a date of **12 April 2007** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Claus Frohberg	: DECISION ON REQUEST FOR
Patent Number	: 7626080	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/573,998	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **81** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THE NEUDECK LAW FIRM, LLC
8961 LLAMA LANE
WINDSOR CO 80550

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
ROGERS, Susan L. :
Application No. 10/574,019 : DECISION ON PETITION
Filed: March 29, 2006 : TO WITHDRAW
Attorney Docket No. **ROG004** : 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 10, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Alexander Neudeck, the sole attorney of record. Alexander Neudeck has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Susan Rogers at the address indicated below.

There is an outstanding Office action mailed November 26, 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: **SUSAN L. ROGERS**
37 MONCRIEF AVENUE
NELSON NEW ZEALAND

cc: **EFFECTIVELY CREATIVE, LLC**
C/O PETE DUBLER
8103 BURNS DR.
COLLINS CO 80525-9354

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Paper No.

Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

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AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Tagawa	:	
Application No. 10/574,020	:	DECISION ON PETITION
Filed: December 18, 2006	:	PURSUANT TO
Attorney Docket No.: TOMI 200011	:	37 C.F.R. § 1.137(B)
Title: BRUSH-LESS TYPE ROTATION DETECTOR SHIELDING STRUCTURE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed June 23, 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 submit drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 17, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings.[1] Accordingly, the above-identified application became abandoned on May 18, 2009. A Notice of Abandonment was mailed on June 12, 2009.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

1 See MPEP § 710.02(e)(III).

(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 and corrected drawings, along with 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.[2]

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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 Office of Patent Publication 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 Patent Publication 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.[3] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

---

2 See Rule 1.137(d).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

11 JUN 2007

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NORRIS, MCLAUGHLIN & MARCUS, PA
875 THIRD AVENUE
18TH FLOOR
NEW YORK, NY 10022

In re Application of MÜSSIG	:	
U.S. Application No.: 10/574,028	:	
PCT Application No.: PCT/EP2004/052213	:	
Int. Filing Date: 16 September 2004	:	DECISION
Priority Date Claimed: 14 October 2003	:	
Attorney Docket No.: 101769-354 KGB	:	
For: HEAVILY FILLED HALOGEN-FREE FLAME-RESISTANT WRAPPING FOIL	:	

This is in response to applicant's "Preliminary Amendment and Response to Notification of Missing Requirements" filed 09 February 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 September 2004, applicant filed international application PCT/EP2004/052213, which claimed priority of an earlier Germany application filed 14 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 28 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 14 April 2006.

On 23 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 10 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 and an English translation of the international application must be filed.

On 09 February 2007, applicant filed the present petition under 37 CFR 1.181.

On 21 March 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 20 April 2007, applicant filed an executed declaration and a copy of the English translation of the international application.

DISCUSSION

The evidence of record is sufficient to establish that the English translation of the international application was originally filed on 23 March 2006. Specifically, the copy of the return postcard, which includes the English translation of the international application in its itemized contents and which bears a USPTO date stamp of 23 March 2006, serves as *prima facie* evidence that the English translation of the international application was received by the USPTO on 23 March 2006.

The $130.00 fee for filing a late English translation will be refunded to Deposit Account No. 14-1263.

CONCLUSION

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

The portion of the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 10 October 2006 which required submission of an English translation of the international application is hereby VACATED.

The portion of the Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 March 2007 which required submission of an English translation of the international application is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 April 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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PO BOX 55874
BOSTON, MA 02205

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JAN 04 2010

In re Application of :
Wu et al. :
Application No. 10/574,031 : ON PETITION
Filed: June 20, 2006 :
Attorney Docket No. 59582(47992) :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 23, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 24, 2009. A Notice of Abandonment was mailed September 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on November 11, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1648 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

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John B Hardaway, III
Nexsen Pruet, LLC
P.O. Box 10107
Greenville SC 29603

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OFFICE OF PETITIONS

In re Application of Astafiev et. al. :
Application No. 10/574,093 : Decision on Petition
Filing Date: November 28, 2007 :
Attorney Docket No. 25065-33 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2010, to revive the application.

The petition is **granted**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action issued September 17, 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 application became abandoned on December 18, 2009. A Notice of Abandonment was issued March 23, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), the petition includes a reply to the outstanding Office action has been filed in the form of an amendment.

As to item (2), the petition includes the required petition fee of $1,620.

As to item (3), 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." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, December 18, 2009, until the date the petition was filed, April 14, 2010, was not unintentional, petitioner must notify the Office.

As to item (4), a terminal disclaimer is not necessary in this case.

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

Technology Center Art Unit 3663 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Steven Brantley at (571) 272-3203 or in his absence to Amy Gandhi at (571) 272-6699.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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.
10/574,108	03/31/2006	Peter Herold	2006-0446A	7425

513 7590 08/13/2009

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
08/13/2009	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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AUG 13 2009

Michael R. Davis
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of :
Herold et al. :
Serial No.: 10/574,108 : Decision on Petition
Filed: 31 March 2006 :
Attorney Docket No.: 2006-0446A :

This letter is in response to the petition filed under 37 C.F.R. § 1.144 filed on July 27, 2009 requesting reconsideration of the restriction and/or lack of unity requirement.

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 19 September 2008, the examiner required an election of species amongst the various definitions of R1 in claim 1. The examiner used the criteria and form paragraph for US restriction practice by stating the inventions were independent and distinct and a search and examination would be burdensome.

On 20 October 2008, applicants elected, with traverse, Group (A) and the compound of Example 5 on page 26 of the specification. Applicants traversed the requirement by pointing to the PCT search report and its indication of novelty.

On 5 December 2008, the examiner mailed to applicants a non-final Office action. The examiner addressed the traversal and made the requirements final. The examiner required applicants to amend the claims according to the elected species, with regard to variables R1 and Q. Claims 11-22 were provisionally rejected under nonstatutory double patenting. Claim 20 was rejected under 35 USC 112, 1st paragraph for scope of enablement. Claims 21-22 were rejected under 35 USC 112, second paragraph, as being indefinite.

On 6 April 2009, applicants filed a response to the Office action.

On 27 April 2009, the examiner mailed to applicants a final Office action. The examiner again required applicants to amend the claims to the definition of R1 = [1,4] benzoxanine or file a petition for the restriction requirement. Claims 11-21 were provisionally rejected under nonstatutory double patenting.

On 27 July 2009, applicant submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

I. Concerning the restriction requirement: it is noted that the original election of species requirement was improperly set forth using the criteria or independence, distinction and burden, which is not applicable to a national stage filing of a PCT application in compliance with 35 USC 371.

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 whether the species are of a similar nature. Should the examiner wish to maintain the election of species requirement, the next Office action should contain appropriate reasons for insisting upon an election of species requirement, which rely upon ISPE Guidelines and PCT Rules.

II. Concerning the extent of examination required for a Markush claim:

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 would be predicated upon a rejection under 35 101, 102, 103 or 112 1st paragraph. In this instance, because the only pending rejection is provisional non-statutory double patenting rejection, the correct practice would have been to extent search and examination to a second to subsequent species..

III. Concerning the objection to the claims for containing non-elected subject matter:

The claims are written using Markush format. Applicants are entitled to retain non-elected species recited in the alternative of a Markush type claim, for consideration under the examination practice for Markush claims, set forth in MPEP 803.02. For this reason, the objection to the claims for reciting non-elected species is improper.

IV. Concerning the provisional non-statutory double patenting rejection:

It is noted that the examiner has included claim 18 in the obviousness type double patenting rejections. Claim 18 is limited to the elected species. Some of the pending claims in the related applications re also limited to species. If upon reconsideration, the examiner takes the position that the elected species is considered obvious over non-elected species, then the unity of invention requirement amongst such species should be withdrawn.

It is noted that the only outstanding rejection in the Office action mailed 27 April 2009 is a non-statutory double patenting rejection. If the provisional double patenting rejection is the only rejection remaining, then the guidance in MPEP 804 applies:

> The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in at least one of the applications.
>
> Nonstatutory Double Patenting Rejections
>
> If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later- filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only rejection remaining in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal

disclaimer must be required in the later-filed application before the rejection can be withdrawn.

DECISION

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

The objection of Claims 11-21 for reciting non-elected subject matter is withdrawn.

The election of species requirement has been withdrawn, pending re-instatement if appropriate reasoning using PCT Rules can be set forth by examiner in the next Office action.

The Office action of February 13, 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 obviousness type double patenting rejections do not refer to the claims, as pending, in the related cases.

The application will be forwarded to the examiner for 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. The obviousness type double patenting rejections will be reconsidered in view of the claims as pending in each application. Should any elected and non-elected species be considered obvious one over the other, as evidenced by any obviousness type double patenting rejections, then the requirement to elect a single species should be withdrawn. Should the provisional double patenting rejection be the only remaining rejection, the examiner should follow the guidance in MPEP 804.

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

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Axel Bouchon	: DECISION ON REQUEST FOR
Patent Number	: 7615557	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

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MAR 0 3 2008

OFFICE OF PETITIONS

Applicant: Lulla et al.
Appl. No.: 10/574,135
Filing Date: September 29, 2004
Title: PHARMACEUTICAL FORMULATION WITH IMPROVED STABILITY
Attorney Docket No.: PAC/eehc/23225 US (4137-00600)
Pub. No.: US 2007/0117781-A1
Pub. Date: May 24, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 24, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because the front page of the patent application publication contains an error, as the Assignee should be changed from "Koninklijke Philips Electronics, N.V." to "CIPLA Limited".

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 assignment information. The error 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.

Applicants should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

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

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

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of
HAMILTON, Eric et al.
Application No. 10/574,159
Filed: January 16, 2007
Attorney Docket No. **HAND0003**

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 27, 2008.

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

A review of the file record indicates that the power of attorney to GLENN PATENT GROUP has been revoked by the Assignee of the patent application on February 22, 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: **HAYNES AND BOONE, LLP**
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
HAMILTON, Eric et al.	:	
Application No. 10/574,159	:	DECISION ON PETITION
Filed: January 16, 2007	:	TO WITHDRAW
Attorney Docket No. **HAND0003**	:	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 17, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then an updated Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Tredelle D. Jackson/

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

13 JUN 2008

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

In re Application of	:	
THOONEN	:	
Application No.: 10/574,207	:	
PCT No.: PCT/IB04/51952	:	DECISION ON PETITION
Int. Filing Date: 01 October 2004	:	
Priority Date: 01 October 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: US03 0360 US2	:	
For: ELECTRICAL SHIELDING IN STACKED DIES BY USING CONDUCTIVE DIE ATTACH ADHESIVE	:	

The petition to revive under 37 CFR 1.137(b) filed 03 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph 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 inventor and authorized payment of the appropriate surcharge. 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 is advised that while the filed declaration is compliant under 37 CFR 1.497(a), it does not appear that an application data sheet has been filed with the present application providing the post office and mailing address for the inventor.

The application has an international filing date of 01 October 2004 under 35 U.S.C. 363 and will be given a date of **03 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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

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24 APR 2008

Kenyon & Kenyon, LLP
One Broadway
New York, New York 10004

In re Application of: KOCHER, Pascal
Application No.: 10/574,208
PCT No.: PCT/DE04/01630
Int. Filing Date: 22 July 2004
Priority Date: 28 October 2003
Attorney Docket No.: 101914206
For: DEVICE FOR FATIGUE WARNING IN MOTOR VEHICLES HAVING A RUN-UP ALARM SYSTEM

DECISION ON REQUEST

This decision is issued in response to applicant's "Petition To Withdraw Holding Of Abandonment" filed 11 December 2007, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 July 2004, applicant filed international application PCT/DE04/01630 which claimed a priority date of 28 October 2003 and which designated the United States. On 19 May 2005, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 April 2006.

On 30 March 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, a copy of the international application, and a preliminary amendment.

On 08 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required.

On 16 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 11 December 2007, the petition considered herein was filed. The petition asserts that on 08 May 2007 applicants filed a timely response to the Notification Of Missing Requirements, including an executed declaration.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 08 May 2007. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed postcard identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.
>
> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by Express Mail number, application serial number, and docket number. The receipt itemizes, inter alia, an Executed Declaration. The receipt is stamped "PCT/PTO 08 May 2007" across its face. However, a review of the application file reveals that the declaration filed on 08 May 2007 is not located therein and applicant has not submitted a true copy of the declaration with the present petition.

At this time, it is not appropriate for the Office to withdraw the Notification of Abandonment (Form PCT/DO/EO/909) mailed 16 November 2007 without a true copy of the declaration filed on 08 May 2007.

CONCLUSION

For the reasons discussed above, applicant's petition is **DISMISSED** without prejudice.

Applicant is hereby given a **TWO (2) MONTH** time period from the mail date of this communication in order to file a proper response. A proper response must include a true copy of an acceptable declaration alleged to have been filed on 08 May 2007 together with an appropriate statement verifying that the declaration is a true copy.

Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents,

Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

20 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Kenyon & Kenyon, LLP
One Broadway
New York, New York 10004

In re Application of: KOCHER, Pascal
Application No.: 10/574,208
PCT No.: PCT/DE04/01630
Int. Filing Date: 22 July 2004
Priority Date: 28 October 2003
Attorney Docket No.: 101914206
For: DEVICE FOR FATIGUE WARNING IN MOTOR VEHICLES HAVING A RUN-UP ALARM SYSTEM

DECISION ON REQUEST

This decision is issued in response to applicant's "Response to Decision on Request to Withdraw Holding Of Abandonment" filed 06 May 2008, treated herein as a renewed petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 July 2004, applicant filed international application PCT/DE04/01630 which claimed a priority date of 28 October 2003 and which designated the United States. On 19 May 2005, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 April 2006.

On 30 March 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, a copy of the international application, and a preliminary amendment.

On 08 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required.

On 16 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 11 December 2007, applicant filed a petition under 37 CFR 1.181. In a decision dated 24 April 2008, applicant's petition was dismissed without prejudice.

On 06 May 2008, applicant filed a renewed petition under 37 CFR 1.181. Applicant states in the present petition that the response to the Notification of Missing Requirements was previously submitted on 08 May 2007.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 08 May 2007. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed postcard identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.
>
> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of the declaration and a copy of their date-stamped filing receipt. The receipt identifies the application by the application number and attorney docket number. The receipt itemizes a declaration. The receipt is stamped "Rec'd PCT/PTO 08 May 2007" across its face is sufficient to indicate that the above item was in fact received in the Office on 08 May 2007.

CONCLUSION

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

In view of the declaration filed 08 May 2007, the Notification of Abandonment (Form PCT/DO/EO/909) dated 16 November 2007 is hereby **VACATED**.

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

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

3 0 MAR 2007

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Alexandria, VA 22313-1450
www.uspto.gov

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191

In re Application of
SCHULZ et al.
Application No.: 10/574,219
PCT No.: PCT/EP05/51894
Int. Filing Date: 27 April 2005
Priority Date: 27 April 2004
Attorney Docket No.: P29299
For: AQUEOUS ANTI-PERSPIRATION FORMULATION

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Cover Letter Regarding Change of Last Name of Fourth Inventor" filed 03 October 2006 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicants are requesting to change the name of the fourth inventor from Yvonne Cierpisz to Yvonne Eckhard due to marriage. The $400 petition fee will be charged to counsel's Deposit Account No. 19-0089.

BACKGROUND

On 31 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; a copy of the international application; and a preliminary amendment.

On 03 October 2006, applicants filed an executed declaration of inventors which was accompanied by an affidavit executed by Yvonne Eckhard (formerly Yvonne Cierpisz).

DISCUSSION

Section 605.04(b) of the 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 are requesting to change the name of the fourth inventor from Yvonne Eckhard to Yvonne Cierpisz. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the fourth 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 certified copy of the court order."

Here, applicants' submission included the authorization to charge Deposit Account No. 19-0089 for required fees. Based on this authorization, Deposit Account No. 19-0089 will be charged the requisite petition fee of $400, 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.

However, the declaration executed by Yvonne Eckhard is not in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration includes an alteration (to correct the name of the inventor) that has not been initialed and dated by Yvonne Eckhard. Further, with respect to the handwritten alteration, it is unclear if the fourth inventor's name is Yvonne Eckhard, as stated in the affidavit, or Yvonne Cierpisz Eckhard as listed on the declaration of inventors. Therefore, a newly executed declaration from Yvonne Eckhard is required.

Further, the declaration executed by Linda Engfeldt does not comply with 37 CFR 1.69 in that it has not been fully translated into English. The translation of the body of the declaration is acceptable since applicants have used the German-English declaration form provided by the USPTO, however, the citizenship of Linda Engfeldt is listed in German as "Scheweden" but has not been translated on the English side. (See 37 CFR 1.69(b)) Additionally, the declaration includes an alteration (to correct the citizenship of the inventor) that has not been initialed and dated by Linda Engfeldt. (See MPEP §605.04(a) and 37 CFR 1.52(c)). Therefore, a newly executed declaration from Linda Engfeldt is required.

Therefore, item (2) has not been satisfied, and thus the petition may not be granted at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** 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).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

18 MAY 2007

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191

In re Application of :
SCHULZ et al. :
Application No.: 10/574,219 : DECISION ON PETITION
PCT No.: PCT/EP05/51894 : UNDER 37 CFR 1.182
Int. Filing Date: 27 April 2005 :
Priority Date: 27 April 2004 :
Attorney Docket No.: P29299 :
For: AQUEOUS ANTI-PERSPIRATION FORMULATION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.182" dated 02 May 2007. Applicants are requesting to change the name of the fourth inventor from Yvonne Cierpisz to Yvonne Eckhard due to marriage. The $400 petition fee has been submitted.

BACKGROUND

On 31 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; a copy of the international application; and a preliminary amendment.

On 03 October 2006, applicants filed a Petition under 37 CFR 1.182 requesting to change the name of the fourth inventor from Yvonne Cierpisz to Yvonne Eckhard. In a decision dated 30 March 2007, applicants' petition under 37 CFR 1.182 was dismissed without prejudice.

On 02 May 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 are requesting to change the name of the fourth 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 fourth 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 Deposit Account No. 50-1733 for 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. Further, the declarations (executed by Yvonne Eckhard and Linda Engfeldt) filed 02 May 2007 are in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Yvonne Cierpisz to Yvonne Eckhard is **GRANTED**. The declaration executed by Yvonne Eckhard and Linda Engfeldt are in compliance with 37 CFR 1.497(a)-(b).

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 27 April 2005 and a date of 02 May 2007 under 35 U.S.C. 371.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of	:	
BUNSMANN, WINFRIED et al.	:	MAR -9 2010
Application No.: 10/574,245	:	DECISION ON
Filing or 371(c) Date: March 12, 2007	:	PETITION
Attorney Docket Number: BU-16PCT	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) December 17, 2009.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed August 7, 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on November 24, 2009.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on November 9, 2009. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

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. The Issue Fee has been charged to Deposit Account 11-1835.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Philip A. Beachy	: DECISION ON REQUEST FOR
Patent Number	: 7652043	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

08 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

In re Application of: CHEN, Yin, et al
U.S. Application No.: 10/574, 254
PCT No.: PCT/US2004/017331
International Filing Date: 03 June 2004
Priority Date: 03 June 2003
Atty Docket No.: 17242/003004
For: NUCLEOTIDES FOR PREVENTION AND TREATMENT OF BACTERIAL AND FUNGAL PATHOLOGIES

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 30 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 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. Based on the granting of the petition for revival, applicant's alternative petition to treat this submission as a filing under 35 U.S.C. 111(a) is dismissed as moot.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 50-0591 will be charged the $65 small entity 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 30 March 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

Mail Date: 04/21/2010

Applicant	: Adrien Gasse	: DECISION ON REQUEST FOR
Patent Number	: 7642893	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIDSON, DAVIDSON & KAPPELL, LLC
485 7TH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

MAILED

MAR 03 2009

OFFICE OF PETITIONS

In re Application of :
Angelo BEATI, et al :
Application No. 10/574,258 : DECISION ON PETITION
Filed: March 28, 2006 :
Attorney Docket No. 12928/10026 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper reply to the after final Office action dated November 13, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2008.

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

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

This application is being referred to Technology Center 3663 for appropriate action by the Examiner in the normal course of business on the reply received January 8, 2009.

Thurman Page
Petitions Examiner
Office of Petitions

JAN 0 8 2009
PATENT & TRADEMARK OFFICE

PTO/SB/64 (12-08)
Approved for use through 01/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)
12928/10026; 569.1012

First named inventor: Angelo BEATI

Application No.: 10/574,258 Art Unit: 3663

Filed: March 28, 2006 Examiner: Ricardo J. Palabrica

Title: NUCLEAR FUEL ASSEMBLY INCLUDING A LATTICE REINFORCING DEVICE AND THE USE OF SUCH A DEVICE IN A NUCLEAR FUEL ASSEMBLY

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 $ 1620.00 (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 Supplemental Response to Office Action (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.

01/08/2009 BTEMAN1 00000025 10574258 1620.00 OP
01 FC:1453

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.

Signature	January 6, 2009 Date
William C. Gehris Typed or printed name	38,156 Registration Number, if applicable
485 Seventh Avenue, 14th Floor Address	(212) 736 - 1940 Telephone Number
New York, New York, 10018 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.

January 6, 2009 Date	Signature Rashine Miller Typed or printed name of person signing certificate

JAN 0 8 2009
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re:	Application of:	Angelo BEATI et al.
	Serial No.:	10/574,258 Confirmation No.: 3663
	Filed:	March 28, 2006
	For:	NUCLEAR FUEL ASSEMBLY INCLUDING A LATTICE REINFORCING DEVICE AND THE USE OF SUCH A DEVICE IN A NUCLEAR FUEL ASSEMBLY
	Art Unit:	3663
	Examiner:	Ricardo J. Palabrica
	Customer No.:	23280
	Atty. Docket:	12928/10026; 569.1012

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

January 6, 2009

SUPPLEMENTARY RESPONSE TO OFFICE ACTION

Sir:

This Supplementary Amendment is in response to the Notice of Non-Complaint Amendment dated March 18, 2008. The claim listing has been amended to include a full listing of the claims. This Amendment includes the arguments previously submitted on February 1, 2008 in response to the Office Action dated July 23, 2008. A Request for Continued Examination was also filed on February 1, 2008 with payment of $810. At this time applicant hereby requests reconsideration of the application based on the following remarks.

PTO/SB/21
JAN 0 8 2009
PATENT & TRADEMARK OFFICE

FORM PTO-1083

Docket No.: 12928/10026; 569.1012
Date: January 6, 2009

Mail Stop: PETITION
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

In re application of: **Angelo BEATI et al.**
Serial No.: 10/574,258
Filed: March 28, 2006
For: **NUCLEAR FUEL ASSEMBLY INCLUDING A LATTICE REINFORCING DEVICE AND THE USE OF SUCH A DEVICE IN A NUCLEAR FUEL ASSEMBLY**

S i r:

Transmitted herewith is a **Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (2 pages)** in the above-identified application.

[X] Also transmitted herewith are:
[ ] Petition for extension under 37 C.F.R. 1.136
[X] Other: Return Receipt Postcard
Supplemental Response to Office Action (13 pages)

[X] Check(s) in the amount of **$1620.00** is/are attached to cover:
[ ] Filing fee for additional claims under 37 C.F.R. 1.16
[ ] Petition fee for extension under 37 C.F.R. 1.136
[X] Other: Petition fee under 37 C.F.R. 1.17(m)

[X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

[X] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
[X] Any patent application processing fees under 37 C.F.R. 1.17.
[X] Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

William C. Gehris, Reg. No. 38,156
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
Tel: (212) 736-1940
Fax: (212) 736-2427

I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on January 6, 2009.
DAVIDSON, DAVIDSON & KAPPEL, LLC
BY: Danielle C. Sullivan
Danielle C. Sullivan

04 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
PRASAD	:	
Application No.: 10/574,267	:	
PCT No.: PCT/IB03/02011	:	DECISION ON PETITION
Int. Filing Date: 15 May 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 2761-0173PUS1	:	
For: FUNCTIONAL TRANSITION METAL SILICATES (FTMS)	:	

The petition to revive under 37 CFR 1.137(b) filed 31 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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a payment of the full U.S. Basic National fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 15 May 2003 under 35 U.S.C. 363 and will be given a date of **31 March 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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

UNITED STATES PATENT and TRADEMARK OFFICE

18 NOV 2008

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

LOWE HAUPTMAN & BERNER, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

In re Application of	:	DECISION ON
Jean-Michael HODE	:	
Application No.: 10/574,291	:	
PCT No.: PCT/EP04/052368	:	
Int. Filing Date: 30 September 2004	:	PETITION UNDER
Priority Date: 03 October 2003	:	
Attorney's Docket No.: 4590-506	:	
For: GENERATION OF AGITATION NOISE	:	
ACCORDING TO A PREDETERMINED HISTOGRAM	:	37 CFR 1.181

This Decision is in response to applicants' "RECONSIDERATION OF HOLDING OF ABANDONMENT" filed on 03 August 2007 and the status inquiries 7 February 2008, 31 July 2008 and 22 October 2008, which is being treated as "petition under 37 CFR 1.181," which request that the above-identified application's declaration was timely filed on 22 November 2006 by facsimile.

BACKGROUND

On 30 September 2004, this international application was filed, which claimed priority of an earlier application filed 03 October 2003.

On 31 March 2006, applicant 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 of the inventor accompanied the transmittal letter.

On 13 November 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date. The Notice stated that the above must be furnished within the time period set forth. The notification set two (2) months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 30 July 2007, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 11/13/2006 within the time period set therein.

On 03 August 2007, applicant submitted the instant petition with a copy of the declaration allegedly timely filed by facsimile on 22 November 2006 in response to the Notification of Missing Requirements mailed November 13, 2006.

On 07 February 2008, 31 July 2008, and 22 October 2008 applicant mailed "Status Inquires" inquiring the status of the aforementioned application.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

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

Applicants have satisfied items (1), and (2) but not item (3) under 37 CFR 1.8(b).

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 and certificate of transmission.

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." The present petition is signed by Kenneth M. Berner, however, he is not the person who executed the Certificate of Transmission for the 22 November 2006 transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission," as required by the MPEP (the petition does not include a confirming statement from Candance Chambliss, the person who signed the Certificate of Transmission).

In addition, no statement has been provided in the petition that this is true a copy of the facsimile submitted on 22 November 2006.

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(3). Accordingly, on the present record it cannot be concluded that the declaration was originally filed by facsimile on 22 November 2006 as a timely response to the Notification Of Missing Requirements.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

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.

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

UNITED STATES PATENT and TRADEMARK OFFICE

28 APR 2009

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

LOWE HAUPTMAN GILMAN
& BERNER, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

In re Application of	:	DECISION ON
Jean-Michael HODE	:	
Application No.: 10/574,291	:	
PCT No.: PCT/EP04/052368	:	
Int. Filing Date: 30 September 2004	:	PETITION UNDER
Priority Date: 03 October 2003	:	
Attorney's Docket No.: 4590-506	:	
For: GENERATION OF AGITATION NOISE	:	
ACCORDING TO A PREDETERMINED HISTOGRAM	:	37 CFR 1.181

This Decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181 AND RECONSIDERATION OF HOLDING OF ABANDONMENT" filed on 16 January 2009, which request that the above-identified application's declaration was timely filed, and the withdrawal of the Notice of Abandonment mailed on 30 July 2007.

BACKGROUND

In a decision from this on Office on 18 November 2008, the petition filed under 37 CFR 1.181 was dismissed. The decision stated that applicants did not meet item (3) under 37 CFR 1.8(b) because no statement was provided from a person that had first hand knowledge.

On 16 January 2009, petitioner filed the current renewed petition with included a statement from Candance Chambliss.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

> (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 has now satisfied item (3), thus satisfying item (1) – (3) under 37 CFR 1.8(b).

The certificate of mailing under 37 CFR 1.8 is valid for the declaration because a statement has been provided by Candance CHambliss and can be use as a basis for a timely filing in response to the Notification of Missing Requirements mailed on 13 November 2006.

Accordingly, petitioner's response- the declaration filed on **22 November 2006**- is considered timely and is the date of receipt at USPTO.

The date of receipt for the Declaration is **22 November 2006**.

CONCLUSION

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

The NOTICE OF ABANDONMENT, mailed 30 July 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 of this application as **22 November 2006**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHLUMBERGER-DOLL RESEARCH
ATTN: INTELLECTUAL PROPERTY LAW DEPARTMENT
P.O. BOX 425045
CAMBRIDGE MA 02142

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

Applicant: Hughes et al.
Appl. No.: 10/574,298
International Filing Date: October 8, 2004
Title: WELL BORE TREATMENT FLUID
Attorney Docket No.:57.0552 US PCT
Pub. No.: 2007/0095534 A1
Pub. Date: May 3, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 26, 2007, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication only includes one of the five inventors.

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

The request for corrected publication, received on July 26, 2007, was not timely filed under 37 CFR 1.221(b).

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

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and 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

08 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

In re Application of	:	
POSSE ESPINOSA, Rafael	:	
Application No.: 10/574,310	:	DECISION
PCT No.: PCT/IB04/02973	:	
Int. Filing Date: 02 September 2004	:	ON PETITION UNDER
Priority Date: 03 September 2003	:	
Docket No.: 066440-0012	:	37 CFR 1.137(b)
For: PORTABLE SYSTEM FOR ADMINISTERING ENEMAS	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 31 March 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.

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 has been paid.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, 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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07 JAN 2008

McDERMOTT WILL & EMERY LLP
18191 Von Karman Ave, Suite 500
Irvine, California 92612-7108

In re Application of	:	
Hiroki UENO	:	
Application No.: 10/574,341	:	DECISION ON
PCT No.: PCT/JP04/013305	:	
Int. Filing Date: 14 September 2004	:	PETITION
Priority Date: 02 October 2003	:	
Attorney's Docket No.: 050203-0146	:	UNDER 37 CFR 1.181
For: EXHAUST GAS PURIFYING	:	
APPARATUS FOR ENGINE	:	

This decision is in response to the "SECOND REQUEST FOR CORRECTED 371(c) DATE," filed on 13 December 2007, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to November 22, 2006.

BACKGROUND

On 31 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. However, no executed oath or declaration was filed on such date.

On 22 November 2006, applicant filed an executed declaration.

On 28 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" 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 11 December 2006, applicant filed another copy of the executed declaration filed on 22 November 2006.

On 13 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 11 December 2006.

On 13 December 2007, applicant submitted the present petition.

DISCUSSION

A review of the file indicates that a properly executed declaration was filed on 22 November 2006. Thus, the date of receipt of the executed declaration for the above application is 22 November 2006, which is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) have been satisfied.

DECISION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 13 April 2007 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **11 December 2006.**

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

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Heller, Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

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SEP 2 4 2008

In re Application of	:	
Dirk Boecker	:	
Application No. 10/574,373	:	DECISION ON PETITION
Filed: December 3, 2007	:	TO WITHDRAW
Attorney Docket No. 38187-2840	:	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 August 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Leslie B. Overman, on behalf of all attorneys/agents associated with customer number 25213. All attorneys/agents associated with customer number 25213 have been withdrawn.

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

The correspondence address has been to that of the inventor at the address of record. 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: Dirk Boecker
1652 Castilleja Avenue
Palo Alto, CA 94306

cc: Goodwin Proctor, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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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
10/574,373	12/03/2007	Dirk Boecker	38187-2840

CONFIRMATION NO. 9712

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000032241717

Date Mailed: 09/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2008.

- 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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04 OCT 2007

23409
MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202

In re Application of :
LAWLER *et al* :
U.S. Application No.: 10/574,385 :
PCT No.: PCT/US2004/032609 :
Int. Filing Date: 01 October 2004 : **DECISION**
Priority Date: 03 October 2003 :
Attorney Docket No.: 074408-9005-00 :
For: MEASURING DEVICE, SUCH AS A SCALE OR MEDICAL SCALE :

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.47(a)" filed 24 July 2007.

BACKGROUND

On 26 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions available.

On 24 July 2007, applicants filed a response which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a declaration signed by two of the three joint inventors; a declaration by Sharon A. Johnson; a $130.00 surcharge fee; a petition fee of $200.00; a three-month extension and fee; and exhibits A - E.

DISCUSSION

In response to the Form PCT/DO/EO/905, applicants filed the petition under 37 CFR 1.47(a) claiming that Theron Kotze cannot be located.

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

Applicants completed items (1), (3) and (4) in the subject petition.

Regarding item (2), the 37 CFR 1.47(a) applicant included a declaration by

Sharon A. Johnson who stated that papers for the above-captioned application were forwarded to Mr. Kotze's last known address but returned as undeliverable by the USPS. Ms. Johnson then attempted to contact Mr. Kotze via email twice but the email were both returned as undelivered. Documentary evidence was provided to support Ms. Johnson's statement of facts as required. Applicants did not make any other attempts to locate and contact the nonsigning inventor.

This is not sufficient to meet item (2) of 37 CFR 1.47(a).

Applicants' burden in showing that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

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

In this case, petitioners have not made any attempt to locate Mr. Kotze using the internet and telephone directory to search for his address and/or telephone number. Applicants should also contact his former employer and former co-workers to determine if they have any information on the whereabouts of the nonsigning inventor. These efforts are not extraordinary and are required to meet the 'diligent effort' standard needed to satisfy item (2) above.

For the reasons discussed above, item (2) 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
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

23409
MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202

In re Application of :
LAWLER *et al* :
U.S. Application No.: 10/574,385 :
PCT No.: PCT/US2004/032609 :
Int. Filing Date: 01 October 2004 : **DECISION**
Priority Date: 03 October 2003 :
Attorney Docket No.: 074408-9005-00 :
For: MEASURING DEVICE, SUCH AS A SCALE OR MEDICAL SCALE :

This decision is in response to applicants' "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" filed 30 November 2007.

BACKGROUND

On 04 October 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 30 November 2007, applicants filed a request for reconsideration which was accompanied by, *inter alia*, a declaration of Edward Lawson, a second declaration of Sharon A. Johnson and copies of other documentary evidence previously submitted.

DISCUSSION

As previously stated, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the original petition.

The 37 CFR 1.47(a) applicants failed to show that a diligent effort was made to locate the nonsigning inventor in the initial petition. Specifically, the evidence submitted did not demonstrate that the 37 CFR 1.47(a) applicant made any attempt to locate Mr. Theron Kotze using the internet and telephone directory. Moreover, there was no indication that the 37 CFR 1.47(a) applicants contacted his former employer and former co-workers to determine if they have any information on the whereabouts of the nonsigning inventor.

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration by Edward Lawson who states that he received an e-mail from the former employer of Mr. Kotze containing contact information in the form of an e-mail address. Petitioners attempted to contact Mr. Kotze at this e-mail address to no avail. Moreover, Ms. Johnson indicated in her second declaration that internet searches were conducted, but that no additional contact information was found. This additional evidence in conjunction with the evidence previously submitted is sufficient to conclude that a the 37 CFR 1.47(a) applicants have made a diligent effort was made to locate the nonsigning joint inventor. As such, item (2) of 37 CFR 1.47(a) is satisfied.

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 October 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 July 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 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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18 SEP 2007

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

In re Application of	:	
Barney et al.	:	
Application No.: 10/574,386	:	DECISION
PCT No.: PCT/US04/32160	:	
Int. Filing Date: 02 October 2004	:	ON
Priority Date: 02 October 2003	:	
Attorney Docket No.: TEVA33001	:	PETITION
For: Dry Powder Inhalation Apparatus	:	

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

BACKGROUND

This international application was filed on 02 October 2004, claimed an earlier priority date of 02 October 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 02 April 2006. Applicants filed *inter alia* the basic national fee on 31 March 2006.

On 02 October 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration compliant with 37 CFR 1.497(a) and (b).

DISCUSSION

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

Regarding requirement (1), the $200.00 petition fee is being charged to petitioner's Deposit Account 12-1095, per the authorization appearing in the instant petition.

As to requirement (2) as it pertains to David O'Leary, petitioner presents an "Affidavit of Samantha Claire Radley" (and attached documentation). Ms. Radley refers to DHL parcels sent to Mr. O'Leary on 03 August 2006 and 05 January 2007 as having been returned as undeliverable, but no documentation on this point (such as copies of tracking reports or of the returned envelopes) has been provided. Ms. Radley also refers to internet searches made using the 192.com and "The Phone Book" services. However, it is not clear why these inquiries were limited to the locality of "Grays," especially in view of Ms. Radley's characterization that such a search should have been successful "if a person was resident in the United Kingdom" and not merely in Grays. In addition, it is not clear why Ms. Radley did not search the BT.com site in the case of Mr. O'Leary, though she states she used it in connection with Ms. Striebig.

With regard to Ms. Striebig, Ms. Radley states that correspondence sent to her on 03 August 2007 was returned, and references a "DHL courier bag" as evidence, but no such evidence accompanies the petition. Thus, it is not clear that the parcel was actually returned. Moreover, the copy of the letter dated 03 August 2007 does not specifically refer to the instant application number (merely referencing "PCT/2004/032160," which omits the identification of the receiving Office). Therefore, it is also not clear whether petitioner specifically sought her execution of a declaration in this specific application, at her indicated last known address.

Ms. Radley further indicates that an alternative possible address ("Cyna Court") for Ms. Striebig was identified as the result of an internet search, and that correspondence sent to said address on 23 August 2006, 02 November 2006 and 05 January 2007 was not successfully delivered. In paragraph 5 of her "affidavit" regarding Ms. Striebig, Ms. Radley references a returned DHL package bearing allegedly illegible markings, but no copy of this writing has been provided. Such evidence is potentially highly probative of the issue of whether Ms, Striebig has in fact moved from her "last known" address to the Cyna Court address which appears to have become the focus of petitioner's efforts (if this becomes established, petitioner will be required to update the statement of Ms. Striebig's last known address). Based on the totality of the evidence presented, it would not be appropriate to conclude that Mr. O'Leary and/or Ms. Striebig have been shown to be unavailable within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement of the last known addresses of David O'Leary and Rachel Striebig.

Regarding requirement (4), the declaration filed on 02 May 2007 appears to have been compiled using sheets from several incomplete declaration documents. MPEP 201.03 states in part that

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In the instant case, it is not clear whether Brian Barney signed a complete copy of the declaration document, nor whether counsel attempted to present each of David O'Leary and Rachel Striebig with a complete declaration. Rather, it appears as though the declaration pages appearing on pp. 10-17 of the instant correspondence were intended as a copy of the declaration allegedly sent to David O'Leary, while the single declaration page appearing on p. 61 appears to have been intended as a copy of the declaration sent to Rachel Striebig. Clarification is required.

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

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

17 MAR 2008

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

In re Application of	:	
Barney et al.	:	
Application No.: 10/574,386	:	DECISION
PCT No.: PCT/US04/32160	:	
Int. Filing Date: 02 October 2004	:	ON
Priority Date: 02 October 2003	:	
Attorney Docket No.: TEVA33001	:	PETITION
For: Dry Powder Inhalation Apparatus	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on 11 January 2008.

BACKGROUND

On 18 September 2007, a decision was mailed to applicants, dismissing without prejudice a petition under 37 CFR 1.47(a) filed on 02 May 2007.

On 13 December 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 02 October 2006.

DISCUSSION

Petitioner urges that the Notification of Abandonment was issued improperly and should be withdrawn. Review of the record reveals that petitioner filed a petition under 37 CFR 1.47(a) on 02 May 2007 and that, on 18 September 2007, said petition was dismissed without prejudice. The Decision mailed on 18 September 2007 set a two-month period for response which, as extendable under 37 CFR 1.136(a), will expire as of midnight on 18 April 2008. The Notification of Abandonment mailed on 13 December 2007 was issued in error, and it is hereby **VACATED**.

DECISION

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

The period for response to the Decision mailed on 18 September 2007, as extendable under 37 CFR 1.136(a), continues to run.

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

18 JUL 2008

United States Patent and Trademark Office

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

In re Application of	:	
Barney et al.	:	
Application No.: 10/574,386	:	DECISION
PCT No.: PCT/US04/32160	:	
Int. Filing Date: 02 October 2004	:	ON
Priority Date: 02 October 2003	:	
Attorney Docket No.: TEVNHC 3.3-083	:	PETITION
For: Dry Powder Inhalation Apparatus	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 21 April 2008.

DISCUSSION

In a Decision mailed on 18 September 2007, the petition under 37 CFR 1.47(a) filed on 02 May 2007 was dismissed, without prejudice, because petitioner had not adequately demonstrated the unavailability of joint inventors O'Leary and Striebig, and because the declaration document filed on 02 May 2007 appeared to be defective.

In response, regarding the unavailability of David O'Leary, petitioner presents an "Affidavit of Samantha Claire Radley," in which Ms. Radley details her attempts to ascertain the whereabouts of Mr. O'Leary. Ms. Radley provides a copy of a DHL envelope addressed to Mr. O'Leary and returned as "NOT KNOWN AT THIS ADDRESS," and explains further her attempts to locate him, including internet searches and personal inquiries. Based on the totality of the evidence now of record, it would be appropriate to conclude that Mr. O'Leary could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a).

Regarding the availability of inventor Striebig, petitioner has presented a declaration executed by her. Petitioner has also provided a newly executed declaration by joint inventor Brian Barney. These declarations satisfy requirement (4) of 37 CFR 1.47(a).

DECISION

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

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

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

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **21 April 2008**.

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

18 JUL 2008

United States Patent and Trademark Office

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

David O'Leary
25 Newburgh Road
Little Thurrock Grays
Essex RM17 6UG
UNITED KINGDOM

In re Application of
Barney et al.
Application No.: 10/574,386
PCT No.: PCT/US04/32160
Int. Filing Date: 02 October 2004
Priority Date: 02 October 2003
Attorney Docket No.: TEVNHC 3.3-083
For: Dry Powder Inhalation Apparatus

Dear Mr. O'Leary:

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

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

United States Patent and Trademark Office

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (David O'LEARY) 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/US2004/032160 and was filed on October 2, 2004 in the names of Brian BARNEY, David O'LEARY and Rachel STRIEBIG for the invention entitled DRY POWDER INHALATION APPARATUS. The national stage application number is 11/791,336 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of April 21, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
MIRLACH et al.	:	
Application No.: 10/574,389	:	DECISION ON PETITION
PCT No.: PCT/EP2004/010109	:	
Int. Filing Date: 10 September 2004	:	UNDER
Priority Date: 02 October 2003	:	
Attorney Docket No.: 081551-000000US	:	37 CFR 1.497(d)
For: EXHAUST SYSTEM FOR AN	:	
INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 12 April 2007.

BACKGROUND

On 10 September 2004, applicants filed international application PCT/EP2004/010109, which designated the United States and claimed a priority date of 02 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 April 2006 (02 April being a Sunday).

On 30 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 13 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 12 April 2007, applicants filed the instant petition under 37 CFR 1.497(d). The petition was accompanied by a statement by Bjoern Koch, a declaration of inventors, two consent of assignee statements, two statements under 3.73(b), and the surcharge under 37 CFR 1.492(h).

DISCUSSION

37 CFR 1.497(d), provides:

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

Item (1)-(3) have been satisifed.

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

The declaration of inventors filed 12 April 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Robert Mirlach and Bjoern Koch as inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of
DORN, Jurgen et al.
Application No. 10/574,399
Filed: April 03, 2006
Attorney Docket No. **480052001300**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

The request is not approved because it is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER, LLP has been revoked by the assignee of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

14 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, TX 77010-3095

In re Application of
SATO, Kenji et al.
Application No.: 10/574,400
PCT No.: PCT/JP04/03432
Int. Filing Date: 15 March 2004
Priority Date: 20 March 2003
Docket No.: HO-P03167US0
For: PROTEOGLYCAN ISOLATED ... PRODUCING THE SAME

DECISION

ON PETITIONS UNDER

37 CFR 1.10(e) and 37 CFR 1.137(b)

This decision is in response to applicants' "Petition to Accept 371 National Phase Application As Timely Filed,"and "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 11 April 2006.

BACKGROUND

On 15 March 2004, applicants filed international application PCT/JP04/03432, claiming a priority date of 20 March 2003. A copy of the international application was transmitted to the Office by the IB on 30 September 2004. The deadline for entry into the national stage in the United States was 20 September 2005.

On 20 September 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee and a declaration of the inventors.

On 29 March 2006, applicants filed a petition under 37 CFR 1.10(e), accompanied by copies of what applicants claim was submitted on 20 September 2005.

On 03 April 2006, applicants filed a petition under 37 CFR 1.137(b), accompanied by a second payment of fees.

DISCUSSION

Applicants state that the 20 September 2005 papers sent to the Office were lost and that the Office has no record of the documents other than the cashed check. Applicants are mistaken. The 20 September 2005 papers are present in the file. The application is not abandoned. Applicants' petition to revive fee and duplicate national fees paid 03 April 2006, will be refunded to deposit account no. 06-2375, as authorized.

CONCLUSION

For the reasons set forth above, the petitions under 37 CFR 1.10(e) and 37 CFR 1.137(b) are **DISMISSED AS MOOT**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The application has a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 20 September 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 3 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

In re Application of	:	
NING, Hongjun X.,. et al.	:	
Application No.: 10/574,410	:	DECISION ON
PCT No.: PCT/US2004/032413	:	
Int. Filing Date: 01 October 2004	:	PETITION UNDER
Priority Date: 03 October 2003	:	
Attorney Docket No.: 20008/G012B-US	:	37 CFR 1.47(a)
For: METHODS AND APPARATUS TO DELIVER INK TO PRINTING SYSTEMS	:	

This is in response to applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 June 2007.

BACKGROUND

On 01 October 2004, applicants filed international application PCT/US2004/032413, claiming a priority date of 03 October 2003. The deadline for paying the basic national fee in the United States expired at midnight on 03 April 2006.

On 31 March 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 27 November 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 27 June 2007, applicants submitted this petition accompanied by a declaration of an inventor and a firsthand statement of facts and the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (2), (3) and (4) have been satisfied. The $200 fee for this petition will be charged to deposit account no. 50-2455, as authorized. Applicants have supplied evidence that

the non-signing inventor was presented with a complete copy of the application papers and has not returned a signed declaration and has expressed a refusal to sign the declaration. Applicants state that the last known address of inventor Stephen J. Wilkins as 17695 Dawn Court, Gurnee, IL 60031. The declaration submitted complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **27 June 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 3 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Stephen J. Wilkins
17695 Dawn Court
Gurnee, IL 60031

In re Application of
NING, Hongjun X.,. et al.
Application No.: 10/574,410
PCT No.: PCT/US2004/032413
Int. Filing Date: 01 October 2004
Priority Date: 03 October 2003
Attorney Docket No.: 20008/G012B-US
For: METHODS AND APPARATUS TO DELIVER INK TO PRINTING SYSTEMS

Dear Mr. Wilkins:

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

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Paper No.

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

MAILED

APR 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,612,195	: DECISION ON REQUEST
Grueneberg et al.	: FOR
Issue Date: November 3, 2009	: RECONSIDERATION OF
Application No. 10/574,416	: PATENT TERM ADJUSTMENT
Filed: March 31, 2006	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
USAV20020187 US PCT	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred thirty-nine (139) 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 one hundred thirty-nine (139) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred thirty-nine (139)** days.

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

D Wood

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 : 7,612,195 B2

DATED : **November 3, 2009** **DRAFT**

INVENTOR(S) : Grueneberg 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 12 days.

Delete the phrase "by 12 days" and insert – by 139 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of:
Eggert Stockfleth
Serial No.: 10/574,422
Filed: November 7, 2006
Attorney Docket No.: 50125/084002

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed February 21, 2008, requesting that the finality of the Office action of December 18, 2007 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on July 6, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-35 were pending and claims 33 and 34 were withdrawn from examination on the merits as being directed toward a non-elected invention, leaving claims 1-32 and 35 for examination on their merits.

In this non-final Office action, the examiner instituted the following rejections:

1) Claims 1, 3-5, and 8-20, and 27 under 35 USC § 102 (a) as being anticipated by Dou et al (US 2002/0151582),
2) Claims 1-3, 6, 8-20, 27, 29, 30, and 35 under 35 USC § 102 (a) as being anticipated by Evans et al (US 2003/0143165),
3) Claims 1-6, 8-20, and 29 under 35 USC § 102 (b) as being anticipated by Zhao et al (1998),
4) Claims 1, 3-5, 8-20, and 27-30 under 35 USC § 102 (b) as being anticipated by Hersh et al (US 6,337,320),
5) Claims 1, 3-5, and 7-27 under 35 U.S.C. 103(a) as being unpatentable over Dou et al (US 2002/0151582),
6) Claims 1-3, 6, 8-27, 29, 30, and 35 under 35 U.S.C. 103(a) as being unpatentable over Evans et al (US 2003/0143165),
7) Claims 1-6, 8-27, and 29 under 35 U.S.C. 103(a) as being unpatentable over Zhao et al (1998),
8) Claims 1, 3-5, 8-20, and 27-30 under 35 U.S.C. 103(a) as being unpatentable over Hersh et al (US 6,337,320),
9) Claims 1, 3-5, 7-27, 31, and 32 under 35 U.S.C. 103(a) as being unpatentable over Dou et al (US 2002/0151582) in view of Sheffield, SR (US 2002/0031535), and

10) Claims 1, 3-5, and 7-27 under 35 U.S.C. 103(a) as being unpatentable over Dou et al (US 2002/0151582).

Applicant filed arguments and amendments to the claims on October 9, 2007 in response to the non-final Office action of July 6, 2007.

On December 18, 2007, 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, 3-6, and 8-35 were pending and claims 33 and 34 remained withdrawn from examination on the merits, being directed toward a non-elected invention. Claims 1, 3-6, 8-32, and 35 remained eligible for examination on their merits.

In this final Office action, the examiner instituted the following rejections:

A) Claims 1, 3-6, 8-20, 27, and 29 under 35 USC § 102 (a) as being anticipated by newly applied Li et al (1999) as evidenced by Dou et al (US 2002/0151582),
B) Claims 1, 3-6, and 8-20 under 35 USC § 102 (b) as being anticipated by newly applied Jia et al (2002),
C) Claims 1, 3-6, 8-27, and 29 under 35 U.S.C. 103(a) as being unpatentable over newly applied Li et al (1999) as evidenced by Dou et al (US 2002/0151582),
D) Claims 1, 3-6, and 8-26 under 35 U.S.C. 103(a) as being unpatentable over newly applied Jia et al (2002),
E) Claims 1, 3-6, 8-32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over newly applied Li et al. (1999) in view of Brash et al (US 2002/0198161), and further in view of Voet (US 6,723,750), as evidenced by Dou et al (US 2002/0151582),
F) Claims 1, 3-6, 8-28, 30-32, and 35 under 35 U.S.C. 103(a) as being unpatentable over newly applied Jia et al (2002) , and further in view of Voet (US 6,723,750), as evidenced by Dou et al (US 2002/0151582).

In response thereto, applicant filed this petition on February 21, 2008, requesting that the finality of the Office action of December 18, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In this petition filed on February 21, 2008, applicant argues that the final Office action mailed on December 18, 2007 was premature and improper. Specifically, applicant contends that all of the rejections made in the final Office action, represented by A-F, above, were new grounds of rejection, not necessitated by applicant's amendments to the claims filed on October 9, 2007.

Specifically, applicants indicate that the amendment filed on October 9, 2007 merely added the limitation of 'pre-cancerous' from claim 2 into claim 1 and subsequently cancelled claim 2, among other amendments to the claims. Applicant argues that "...nothing in the amendments to the claims in response to the first Office action changed the scope of the claims in such a way as to make the newly cited references applicable to the currently pending claims, but not to the claims as originally filed" (p. 3, Petition). Applicant thus asserts that the new rejections made in the final Office action, represented by A-F above, were new rejections, not necessitated by applicant's amendments to the claimed invention.

Applicant, in support of his arguments refers to MPEP § 706.07:

> '...the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection....Switching... from one set of references to another by the examiner in rejecting successive actions claims of substantially the same subject matter will.., tend to defeat attaining the goal of reaching a clearly defined issue for an early termination.....applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in prosecution of his or her application...*a second... action on the merits in any application.., should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed'* (emphasis added)

Applicant's points are well taken. It is clear that claim 1 was amended by applicant on October 9, 2007 merely to add the limitation of 'pre' to the previously existing limitation of 'cancerous' to claim 1, wherein the term 'pre-cancerous' was already present in claim 2, which had already been considered by the examiner in the non-final Office action. Thus, the new rejections presented by the examiner in the final rejection over claim 1 and claims dependant therefrom, in which the examiner explicitly states that each new rejection was necessitated by applicant's amendments to the claims, were indeed *not* necessitated by applicant's amendments as it is clear that the term 'pre-cancerous' was present in claim 2 prior to the amendment of the claims by applicant on October 9, 2007. Thus, any applicable art pertaining to claim 2 such as Li et al. (1999) or Jia et al (2002) (*inter alia*) should have been applied over claim 2 or any other applicable claims at the time of the non-final Office action.

It is thus decided that the final Office action mailed on December 18, 2007 was premature and not in accord with MPEP § 706.07. All of the rejections set forth in the final Office action identified as A-F above were new grounds of rejection not necessitated by an amendment or any IDS submitted by applicants. Accordingly, applicant has not been provided a fair chance to rebut these new rejections and develop a clear record prior to any appeal.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

15 SEP 2009

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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of	:	
COSTANTINO, et al.	:	
Application No.: 10/574,437	:	DECISION ON PETITION
PCT No.: PCT/IB2004/003366	:	
Int. Filing Date: 04 October 2004	:	UNDER 37 CFR 1.181
Priority Date: 02 October 2003	:	
Attorney Docket No.: PP021389.0013	:	
For: HYPO- AND HYPER-ACETYLATED MENINGOCOCCAL CAPSULAR SACCHARIDES	:	

This decision is in response to applicant's "REPLY TO NOTIFICATION OF ABANDONMENT" filed 02 March 2009 in the United States Patent and Trademark Office (USPTO). The reply is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fees are required.

BACKGROUND

On 04 October 2004, applicant filed international application PCT/IB2004/003366, which claimed priority of an earlier application filed 02 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 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, 04 April 2006.

On 03 April 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 26 February 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 25 April 2007, responded with a declaration executed by Paolo Costantino and

Francesco Berti.

On 27 August 2007, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the filed declaration was defective as it listed Francesco Berti as an inventor while Francesco Berti did not appear on the published international application. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or the amount of extendable time from the mail date of the Form PCT/DO/EO/905 to file a proper reply.

On 20 February 2009, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) for failure to respond to the Form PCT/DO/EO/916 mailed 27 August 2007.

On 04 March 2009, applicant filed the present petition indicating that a response had been filed on 27 September 2007 and requesting withdrawal of the holding of abandonment.

On 07 July 2009, applicant filed a petition under 37 CFR 1.48(a) to add Francesco Berti as an inventor in the application.

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. The postcard identifies the application by application number, applicant and docket number. Among the items listed on the receipt is "Response to Defective Response." The receipt is stamped "IAP6 REC'D PCT/PTO 01 OCT 2007" across its face. Thus, it is clear that applicant filed a response with the USPTO on 01 October 2007. A review of the review finds that it contains certification under 37 CFR 1.8 that the filing was deposited for mailing on 27 September 2007 and therefore was a timely response to the Form PCT/DO/EO/916 mailed 27 August 2007. However, a review of the filing itself finds that it was not a proper reply to the Form PCT/DO/EO/916. Applicant did not file a petition under 37 CFR 1.497(d) to add Francesco Berti as an inventor, but merely indicated that Francesco Berti should have been listed as an inventor and that the error occurred without deceptive intent. This response is insufficient and therefore the application was properly abandoned.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

The application remains abandoned.

A decision on applicant's petition under 37 CFR 1.48(a) filed 07July 2009 will be held in abeyance pending resolution of the abandonment of the application.

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 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: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

17 NOV 2009

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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of	:	
COSTANTINO, et al.	:	
Application No.: 10/574,437	:	DECISION ON PETITIONS
PCT No.: PCT/IB2004/003366	:	
Int. Filing Date: 04 October 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 02 October 2003	:	
Attorney Docket No.: PP021389.0013	:	AND 37 CFR 1.497(d)
For: HYPO- AND HYPER-ACETYLATED MENINGOCOCCAL CAPSULAR SACCHARIDES	:	

This decision is in response to applicant's filing of 29 September 2009 in the United States Patent and Trademark Office (USPTO) comprising a petition under 37 CFR 1.497(d) to add Francesco Berti as an inventor in the application and a petition under 37 CFR 1.137(b) to revive the application.

BACKGROUND

On 15 September 2009, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any additional petitions.

On 29 September 2009, applicant filed the petitions discussed herein.

DISCUSSION

I. Petition Under 37 CFR 1.497(d)

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

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

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

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

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

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

Regarding Item (2), on 25 April 2007, applicant filed a declaration executed by the proper co-inventors.

As Item (3), payment of the $130.00 petition fee will be charged to deposit account 03-1664 as authorized.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the addition of Francesco Berti as an inventor in the present application.

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

II. Petition Under 37 CFR 1.137(b)

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

As to item 1, applicant has now provided a grantable petition under 37 CFR 1.497(d) to add Francesco Berti as an inventor, thus perfecting the declaration filed 25 April 2007.

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

As to item 3, applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

With the filing of the grantable petition, the proper reply to the Form PCT/DO/EO/916 mailed 27 August 2007 has been provided and it is proper to grant applicant's petition at this time.

CONCLUSION

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

This application has an international application filing date of 04 October 2004 and will be given a date of **25 April 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Raymond NADESON et al. :
Application No. 10/574,438 : DECISION ON PETITION
Filed: June 25, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 210174.401USPC : 37 C.F.R. § 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed on April 3, 2006, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

The instant petition includes statements establishing (A), (B), and (C) above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of :
Moshe Niv, et al. :
Application No. 10/574,455 : DECISION GRANTING PETITION
Filed: April 4, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12808.0036USWO :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 8, 2009 and supplemented September 9, 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 August 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed request to correct inventorship.

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

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

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MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,580,550	:	
Application No. 10/574,456	:	
Filed: April 4, 2006	:	ON PETITION
Issued: August 25,2009	:	
Attorney Docket No. 2894450031	:	

This is a decision on the petition filed February 18, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "Sagem Securite" 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 "Sagem Securite".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction 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.

Further, 37 CFR 3.81(b) requires payment of a $130.00 surcharge fee. The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

21 NOV 2006

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Timothy J. Zarley
Zarley Law Firm, P.L.C.
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350

In re Application of	:	
CARROLL	:	
Application No.: 10/574,457	:	
PCT No.: PCT/GB03/02022	:	DECISION ON PETITION
Int. Filing Date: 12 May 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: P06958US0	:	
For: FOAM MATERIAL AND GARMENTS MADE THEREFROM	:	

The petition to revive under 37 CFR 1.137(b) filed 04 April 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 12 May 2003 under 35 U.S.C. 363 and will be given a date of **04 April 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

04 MAY 2006

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JOHN S. HALE
GIPPLE & HALE
6665-A OLD DOMINION DRIVE
MCLEAN VA 22101

In re Application of
CREES et al.
Serial No.: 10/574,463
PCT App. No.: PCT/GB04/02379
Int'l Filing Date: 06 April 2004
Priority Date: 06 April 2003
Attorney Docket No.: X-9549
For: BIOLOGICAL APPARATUS

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 April 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 including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), is required

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Novak Druce + Quigg, LLP
1300 Eye Street, NW, Suite 1000
Suite 1000, West Tower
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Christiaan Johannes Kooij	: DECISION ON REQUEST FOR
Patent Number	: 7591874	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **298** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUGHRUE MION, PLLC
2100 Pennsylvania Ave, NW
Washington, DC 20037-3213

APR 16 2008

In re Application of	:	DECISION ON REQUEST TO
Yoshihide KAWAGUCHI et al.	:	PARTICIPATE IN PATENT
Application No. 10/574478	:	PROSECUTION HIGHWAY
Filed: April 3, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. Q93964	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d) and the preliminary amendment, filed March 27, 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

SUGHRUE MION, PLLC
2100 Pennsylvania Ave, NW
Washington, DC 20037-3213

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,486	07/16/2007	Yasuchika Takei	TAKEI 54	9144

1444 7590 01/06/2009

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

EXAMINER	
GUTMAN, HILARY L	

ART UNIT	PAPER NUMBER
3612	

MAIL DATE	DELIVERY MODE
01/06/2009	PAPER

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

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

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JAN 06 2009

Sheridan Neimark
BROWDY & NEIMARK, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

December 29, 2008

In re Application of:
Yasuchika TAKEI et al.
Application No.: 10/574,486
Filed: July 16, 2007
Attorney Docket No. TAKEI – 54

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the petition filed on September 3, 2008 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office Action mailed August 21, 2008 as being improper.

The petition is **GRANTED**.

Applicant alleges that the final rejection mailed August 21, 2008 is improper because claims 2 and 3 were not rejected on prior art, in the previous Office action mailed November 29, 2007 and instant claims 2 and 3 were merely amended to incorporate the limitations of cancelled claim 1 and eliminate the negative recitations identified by the examiner.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment 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).

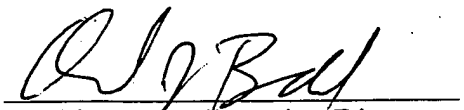
A review of the record reveals that claims 2 and 3 were rejected under 35 USC 112, 2nd paragraph, for failing to further limit the base claim by reciting negative limitations in a first Office action on the merits mailed November 29, 2007. Furthermore, the examiner indicated that claims 2 and 3 would be allowable if rewritten to overcome the rejections under 35 USC 112, 2nd paragraph and to include all the limitations of the base claim. In response to this Office action, applicant amended claims 2 and 3 to include the subject matter of original claim 1 and attempted to eliminate the negative limitations to overcome the 35 USC 112, 2nd paragraph rejections.

In view of the fact that amended claims 2 and 3 were not rejected on any prior art in the first Office action on the merits, it is agreed that the new grounds of rejections were not necessitated by applicants' amendment.

The finality of the Office action mailed September 3, 2008, but not the action itself, is hereby withdrawn. The Office action of September 3, 2008 is now considered to be non-final and the shortened statutory period for response continues to run THREE (3) MONTHS from the date of mailing of the Office action.

SUMMARY: The petition is GRANTED.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (571) 272-6659.



David J. Bagnell, Acting Director
Patent Technology Center 3600
(571) 272-5250

DGD/SM: 12/29/08

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2 0 DEC 2007

Browdy & Neimark, PLLC
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of :
CHANG : DECISION ON PETITION
Application No.: 10/574,487 :
PCT No.: PCT/US04/32341 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 October 2004 :
Priority Date: 02 October 2003 :
Atty. Docket No.: CHANG184A :
For: RECEPTOR SPECIFIC BINDER DISCOVERY :
USING INTRAMOLECULAR ACYL :
MIGRATION INDUCED DYNAMIC :
CARBOHYDRATE LIBRARY :

The petition to revive under 37 CFR 1.137(b) filed 11 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 a compliant declaration executed by the inventor. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 01 October 2004 under 35 U.S.C. 363 and will be given a date of **11 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: (703) 305-0130
Fax: (703) 308-6459

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

MAILED

MAR 0 1 2010

OFFICE OF PETITIONS

In re Application of :
COMINO ALMENARA, Pablo Ignacio :
Application No. 10/574,504 : DECISION ON PETITION
Filed: November 30, 2007 : TO WITHDRAW
Attorney Docket No. **26229** : 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 16, 2009.

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

A review of the file record indicates that the power of attorney to OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. has been revoked by the assignee of the patent application on November 12, 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 Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **OWENS CORNING**
2790 COLUMBUS ROAD
GRANVILLE OH 43023

27 APR 2007

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NIXON & VANDERHYE, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of :
INOUE *et al* :
Application No.: 10/574,505 : **DECISION ON PETITION**
PCT No.: PCT/US00/22674 :
Int. Filing Date: 24 August 2005 : **TO WITHDRAW HOLDING**
Priority Date: 31 August 2004 :
Attorney's Docket No.: 1035-626 : **OF ABANDONMENT**
For: DISPLAY ELEMENT AND DISPLAY :
DEVICE :

This decision is in response to applicants' "Request to Withdraw Holding of Abandonment Under 37 CFR 1.495(B)(2)" filed on 19 March 2007. No fee is required.

BACKGROUND

On 24 April 2002, applicants submitted an English translation of PCT/JP2005/15315 pursuant to 35 U.S.C. 154. As per Office practice, a national stage application was initiated and denoted as U.S. application No. 10/574,505. The thirty-month deadline for PCT/JP2005/15315 did not expire until 28 February 2007. Thus, no fees were due at this time.

On 27 February 2007, applicants filed papers to enter the national stage of PCT/JP2005/15315 which was accompanied by, *inter alia*, a Credit Card Payment form and an executed declaration. These papers were denoted as U.S. application No. 11/661,209.

On 06 March 2007, a Notice of Abandonment was mailed stating that the above-captioned application was abandoned because applicants failed to submit the Basic national fee within thirty-months.

On 19 March 2007, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, a stamped postcard receipt for the 27 February 2007 documents.

On 26 April 2007, applicants submitted a complete copy of the documents filed 27 February 2007 along with a postcard receipt for those documents as requested.

DISCUSSION

There are two issues to discuss with this petition: (1) Duplicate national stage applications of PCT/JP2005/15315 were made, and (2) the papers filed 27 February 2007 are missing.

Duplicate National Stage Applications

A review of USPTO and financial records indicate that the papers filed 27 February 2007 were denoted as U.S. application No. 11/661,209. However, the national stage application of PCT/JP2005/15315 was already denoted as U.S. application No. 10/574,505 due to the submission of the English translation on 03 April 2006.

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/JP2005/15315. The end result for an international application designating the United States of America is a single U.S. national stage application.

Both applications will be merged into one national stage application for PCT/JP2005/15315. Applicants are advised that U.S. application No. 11/661,209 is no longer a valid U.S. National stage application.

Applicants must use only U.S. application No. 10/574,505 for all correspondence to the national stage application of PCT/JP2005/15315.

Papers to Enter National Stage of PCT/JP2005/15315 Missing

A review of office records shows that the national stage papers filed 27 February 2007 and (apparently) placed in U.S. application No. 11/661,209 could not be located.

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 27 February 2007. The postcard receipt records the papers submitted. Applicants have provided a copy of these papers. The postcard receipt is stamped "OIPE FEB 27 2007" across its face. The international application number, docket number and name of the applicant are all listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the national stage papers of PCT/JP2005/15315 were received by the USPTO on 27 February 2007. The national stage fees paid in U.S. application No. 11/661,209 were processed and have been transferred to the subject application.

DECISION

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

The Form PCT/DO/EO/909 mailed 06 March 2007 is hereby **VACATED**.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Matthew K Ryan
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

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OFFICE OF PETITIONS

In re Application of	:	
Wakayama et al.	:	
Application No. 10/574559	:	DECISION
Filing or 371(c) Date: 04/03/2006	:	ON PETITION
Patent No.: 7287844	:	
Issue Date: 10/30/2007	:	
Attorney Docket No.: 590157-2034	:	

This is a decision on the Request for Certificate of Correction filed November 30, 2007, requesting correction of the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition[2]. Further, Office assignment records reflect that Riso Kagaku Corporation and Olympus Corporation are the assignees of record. 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.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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

[2] The processing and Certoficate of Correction fees have been charged to Petitioner's deposit account as authorized in the petition.

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

Mail Date: 04/21/2010

Applicant	: Tomokazu Hayashi	: DECISION ON REQUEST FOR
Patent Number	: 7608355	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of :
Reunamaki et al. :
Application No. 10/574591 : DECISION ON REQUEST
Filing or 371(c) Date: 04/04/2006 : FOR RECONSIDERATION OF
Attorney Docket Number: : PATENT TERM ADJUSTMENT
088245-1035 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed July 21, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 602 days, not 559 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants assert that the application is entitled to an adjustment of 602 days pursuant to 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) rather than 559 days, as indicated by the Determination of Patent Term Adjustment under 35 U.S.C. 154(b).

The application for patent term adjustment is **DISMISSED**.

On April 27, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 559 days.

On July 21, 2009, applicants timely submitted the present application for patent term adjustment[1]. Applicants request review of the Patent Term Adjustment determination based upon an assertion that the Office failed to assess the correct adjustment under to 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1). Applicants assert that the PTO used May 17, 2006 as the completion date of all 35 U.S.C. § 371 requirements. Applicants further assert that the 371 requirements were completed on April 4, 2006 and cite in support of this assertion the Filing Receipt dated November 29, 2006; the USPTO's U.S. National Stage Worksheet, and the USPTO's Bibliographic Data Sheet (copies enclosed). Thus, applicants argue that the adjustment pursuant to 37 CFR 1.702(a) one is 602 days, the adjustment commencing June 5, 2007 and ending January 26, 2009, and not 559 days, as indicated in the Determination of Patent Term Adjustment under 35 USC 154(b).

A review of the record reveals that Applicants have incorrectly calculated the period of adjustment under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later

[1] Office records show that the Issue Fee payment was received in the Office on July 21, 2009.

than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application (Emphasis supplied). Office records reveal, as confirmed by the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495, mailed November 29, 2006, that the "Date of Completion of all 35 U.S.C. 371 Requirements," is May 17, 2006.

Applicants assert that the period of adjustment under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) is April 4, 2006; however, as indicated on the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495, mailed November 29, 2006, the date of April 4, 2006, is the "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements." As stated, this date is the "Date of Receipt" of 35 U.S.C. requirements, and is not the "Date of Completion of all 35 U.S.C. 371 Requirements." As provided in the 35 U.S.C. § 154(b)(1)(A)(i)(II), the relevant period is "the date on which an international application fulfilled the requirements of section 371 of this title."

Moreover, the MPEP at 1893.03(b) provides that the "Date of Completion of all 35 U.S.C. 371 Requirements" included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) is relevant for purposes of patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)(II) and 37 CFR 1.702(a)(1) when the USPTO has failed to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the requirements under 35 U.S.C. 371 were fulfilled. In the instant application, this date is 30 months from the priority date.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is 559 days ((559 days of PTO delay reduced by zero (0) days of applicant delay)), subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. As submission of the fee set forth 37 CFR 1.18(e) is a prerequisite prior to treatment on the merits of the request for reconsideration of the patent term adjustment, applicants' request for refund here DISMISSED.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAY 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Reunamaki et al.	:	
Pat. Num./Pub. Num: 7,613,222	:	ON REQUEST FOR
Issue Date: 11/03/2009	:	RECONSIDERATION OF
Application No. 10/574591	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/04/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
088245-1035	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 29, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred one (701) 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 seven hundred one (701) days is **GRANTED to the extent indicated herein.**

A review of the record reveals that the Office errantly assess a reduction of 28 days in accordance with 37 CFR 1.704(c)(10) in connection with the Amendment under 37 CFR 1.312, filed July 21, 2009. The reduction commenced July 21, 2009, the date that Amendment was filed, and ended August 20, 2009, the mailing date of the Office action in response to the Amendment, and is 31 days (not 28 days).

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

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

The application 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 **SIX HUNDRED NINETY-EIGHT (698) DAYS**.

Telephone inquiries specific to this matter should be directed to the unbdersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,613,222 B2

DATED : **November 3, 2009**

INVENTOR(S) : Matsushima 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 531 days.

Delete the phrase "by 531 days" and insert – by 698 days--

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PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
Plaza VII-Suite 3000
45 South Seventh Street
MINNEAPOLIS, MN 55402-1630

Mail Date: 06/14/2010

Applicant	: Takahisa Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7647805	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/574,609	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 05/14/2010

Applicant	: Shinji Maekawa	: DECISION ON REQUEST FOR
Patent Number	: 7615488	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/574,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

27 APR 2006

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

Charles R. Wolfe, Jr.
Blank Rome, LLP
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037

In re Application of	:	
RAVI, et al.	:	
U.S. Application No.: 10/574,667	:	DECISION ON PETITION
PCT No.: PCT/US04/28637	:	
Int. Filing Date: 03 September 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 04 September 2003	:	
Attorney Docket No.: 111828-00137	:	
For: HYDROGEL NANOCOMPOSITES FOR OPHTHALMIC APPLICATIONS	:	

The petition to revive under 37 CFR 1.137(b) filed 04 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventors is required.

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

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0 8 MAY 2007

Charles R. Wolfe, Jr.
Blank Rome, LLP
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037

In re Application of	:	
RAVI, et al.	:	
U.S. Application No.: 10/574,667	:	DECISION ON PETITION
PCT No.: PCT/US04/28637	:	
Int. Filing Date: 03 September 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 04 September 2003	:	
Attorney Docket No.: 111828-00137	:	
For: HYDROGEL NANOCOMPOSITES FOR OPHTHALMIC APPLICATIONS	:	

This decision is in response to applicant's "REQUEST TO CORRECT INVENTORSHIP" filed 05 April 2007 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 27 April 2006, applicant was mailed a decision granting applicant's petition under 37 CFR 1.137(b) to revive the present application.

On 21 February 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 05 April 2007, applicant responded with the present petition accompanied by an executed declaration.

DISCUSSION

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

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

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

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

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

Applicant has satisfied items (1), (2) and (4). Specifically, the inventor being removed has signed a statement indicating that his inclusion in the international application was in error and without deceptive intent. In addition, applicant has provided a compliant declaration of the actual inventor and authorized payment of the petition fee to deposit account number 23-2185.

Regarding item (3), applicant has not included a statement from the assignee consenting to the removal of the inventor named in the petition, as well as, right to prosecute pursuant to 37 CFR 3.73(b).

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

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P.O. BOX 980
VALLEY FORGE, PA 19482

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OFFICE OF PETITIONS

In re Application of	:	
Takumi **TANABE, et al.**	:	
Application No. 10/574,711	:	DECISION GRANTING PETITION
Filed: April 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MTS-3557US**	:	

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

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Patrick Schweizer	: DECISION ON REQUEST FOR
Patent Number	: 7608756	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	: Rainer Scharp	: DECISION ON REQUEST FOR
Patent Number	: 7628134	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,750	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **876** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLIED MATERIALS, INC.
C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

In re Application of TAM :
U.S. Application No.: 10/574,758 :
PCT Application No.: PCT/US2004/033113 :
Int. Filing Date: 07 October 2004 : DECISION
Priority Date Claimed: 08 October 2003 :
Attorney Docket No.: 40006317-0087-002 :
For: A MEASUREMENT SYSTEM AND A METHOD :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 June 2008.

BACKGROUND

On 07 October 2004, applicant filed international application PCT/US2004/033113, which claimed priority of an earlier United States application filed 08 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 08 April 2006.

On 05 April 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 12 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 27 November 2007, the DO/EO/US mailed a Withdrawal of Previously Sent Notice (Form PCT/DO/EO/WITH), which indicated that the Notification of Missing Requirements mailed 12 October 2006 was withdrawn, and a corrected Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 June 2008, applicant filed the present petition under 37 CFR 1.137(b) along with an executed declaration.

DISCUSSION

The corrected Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 27 November 2007 set a two month period for reply, which was extendable by five months under 37 CFR 1.136(a), i.e. until 27 June 2008. On 20 June 2008, applicant filed an executed declaration along with written authorization to charge any required fees to Deposit Account No. 19-3140. Accordingly, a proper response to the corrected Notification of Missing Requirements has been timely submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is DISMISSED AS MOOT.

The $1,540.00 petition fee will be refunded to Deposit Account No. 19-3140.

The $2,230.00 fee for a five-month extension of time will be charged to Deposit Account No. 19-3140.

The application has an International Filing Date under 35 U.S.C. 363 of 07 October 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 June 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

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JUN 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Lionel Fabries	:	
Application No. 10/574,760	:	DECISION ON PETITION
Filed: March 28, 2008	:	
Attorney Docket No. 1512-84	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 6, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 10, 2009. The Notice of Abandonment was mailed January 21, 2010.

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

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,405,239
Inventor(s) : Rolf Gericke
Issued : July 29, 2008
For: ACYLHYDRAZONE DERIVATIVES AND THE USE THEREOF IN THE INHIBITION, REGULATION AND/OR MODULATION OF KINASE SIGNAL TRANSDUCTION
Docket No: MERCK-3158

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

Column 32, line 29, is a change made in the examiner's amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate.

In view of the foregoing, your request in this matter is hereby denied.

A Certificate of Correction will issue to correct the remaining error noted in your request.

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Millen, White, Zelano & Branigan
2200 Clarendon Blvd, Suite 1400
Arlington, VA 22201

ej

23 MAY 2006

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Daniel J Swirsky
AlphaPatent Associates
55 Reuven St
Beit Shemesh 99544
ISRAEL

In re Application of	:	DECISION
GAZIT et al.	:	
Application No.: 10/574,789	:	
PCT No.: PCT/IL04/00301	:	
Int. Filing Date: 01 April 2004	:	
Priority Date: 03 April 2003	:	
Attorney Docket No.: 1553-US	:	
For: PHASED ARRAY ANTENNA FOR INDOOR APPLICATION	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 06 April 2006.

BACKGROUND

On 01 April 2004, applicants filed international application PCT/IL04/00301 which designated the U.S. and claimed a priority date of 03 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 October 2005.

On 20 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, an assertion of small entity status, 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), applicants submitted the basic national fee on 06 April 2006.

As to item (2), applicants submitted the petition fee on 06 April 2006.

As to item (3), a statement from the relevant party or parties has not been provided. It is not clear whose delay is relevant in the present case. A statement by one of the applicants has been provided. If it is applicants' delay that is relevant and applicants are making the statement themselves, then all applicants must make the statement. The party whose delay is relevant may also be the assignee, if the application has been assigned, or applicants' representative. See MPEP § 711.03(c), item II.E. A statement from either (1) the relevant party or parties or (2) applicants' representative is required. Also, applicants' representative may make the statement even if he is not the relevant party pursuant to 37 CFR 10.18.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

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

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13 SEP 2006

Daniel J Swirsky
AlphaPatent Associates
55 Reuven St
Beit Shemesh 99544
ISRAEL

09/13/2006 SBASKEIR 00000006 501388 10574789
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In re Application of :
GAZIT et al. :
Application No.: 10/574,789 :
PCT No.: PCT/IL04/00301 :
Int. Filing Date: 01 April 2004 :
Priority Date: 03 April 2003 :
Attorney Docket No.: 1553-US :
For: PHASED ARRAY ANTENNA FOR INDOOR APPLICATION :

DECISION

This decision is in response to applicants' "RESPONSE TO DECISION" filed in the United States Patent and Trademark Office (USPTO) on 10 July 2006.

BACKGROUND

On 01 April 2004, applicants filed international application PCT/IL04/00301 which designated the U.S. and claimed a priority date of 03 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 October 2005.

On 20 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, an assertion of small entity status, a declaration of inventors and a petition under 37 CFR 1.137(b) to revive the application.

On 23 May 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.137(b). Specifically, it was noted that it was not clear that the statement that the entire delay was unintentional had been made by the relevant party or parties.

On 10 July 2006, applicants filed the instant "RESPONSE TO DECISION" which includes a statement by applicants' representative 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.

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 noted in the decision mailed 23 May 2006, items (1) and (2) have been met.

Item (3) has now been met as well.

The declaration of inventors filed 06 April 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 50-1380.

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

29 JUN 2007

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

In re Application of EGELAND et al :
U.S. Application No.: 10/574,818 :
PCT Application No.: PCT/GB2004/004390 :
Int. Filing Date: 15 October 2004 : DECISION
Priority Date Claimed: 15 October 2003 :
Attorney Docket No.: 2006_0521A :
For: ELECTROCHEMICAL TREATMENT OF SUBSTRATES :

This is in response to applicant's "Petition Under 37 CFR 1.45(c) and 35 USC 118" filed 20 June 2007, which is being treated under 37 CFR 1.47(b).

BACKGROUND

On 15 October 2004, applicant filed international application PCT/GB2004/004390, which claimed priority of an earlier United Kingdom application filed 15 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 28 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 April 2006.

On 06 April 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 June 2007, 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 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 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. See 37 CFR 1.47(b).

With regard to item (1) 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. 23-0975 as authorized by applicant.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that the sole inventor Ryan Egeland either cannot be located or refuses to sign the application papers. Although the petition demonstrates that a diligent effort was made to find Dr. Egeland, it is apparent that Dr. Egeland resides at the Chicago, Illinois address and works at Northwestern Memorial Hospital in Chicago, Illinois (see affidavit of Michael Bennett). Thus, it cannot be reasonably alleged that Dr. Egeland cannot be located.

Dr. Egeland's conduct, however, evidences a probable refusal to cooperate. In particular, Dr. Egeland has failed to respond to repeated telephone and electronic mail messages, has apparently refused to accept delivery of correspondence mailed to him, and has apparently avoided personal contact with an investigator (see Bennett affidavit). However, before it can be concluded that Dr. Egeland refuses to join in the application, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to Dr. Egeland for signature. Presently, petitioner has illustrated that only declaration and assignment papers were sent to Dr. Egeland.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

In the present case, the petition states that Dr. Egeland agreed in writing to assign the invention to Oxford Gene Technology IP Limited ("OGT"). Petitioner has provided a copy of an agreement signed by Dr. Egeland which grants OGT the exclusive ownership of intellectual property which is the result of work performed by Dr. Egeland during his employment with OGT (see Exhibit 1). However, petitioner has not established that the present invention was made during and contributed to OGT while Dr. Egeland was employed by OGT. In particular, an affidavit signed by the person who personally observed Dr. Egeland creating the subject matter of the present invention has not been furnished. Thus, it would not be reasonable to conclude at the present time that OGT has sufficient proprietary interest.

With regard to item (6) above, the petition includes an adequate statement with regard to the preservation of rights of the parties and/or the prevention of irreparable damage.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

06/29/2007 SBASHEIR 00000001 230975 10574818
Sale Ref: 00000001 DA#: 230975 10574818
01 FC:1463 70.00 DA 130.00 OP

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ALEXANDRIA, VA 22313-1450
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24 SEP 2007

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

In re Application of EGELAND et al :
U.S. Application No.: 10/574,818 :
PCT Application No.: PCT/GB2004/004390 :
Int. Filing Date: 15 October 2004 : DECISION
Priority Date Claimed: 15 October 2003 :
Attorney Docket No.: 2006_0521A :
For: ELECTROCHEMICAL TREATMENT OF SUBSTRATES :

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 29 August 2007.

BACKGROUND

On 15 October 2004, applicant filed international application PCT/GB2004/004390, which claimed priority of an earlier United Kingdom application filed 15 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 28 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 April 2006.

On 06 April 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 June 2007, applicant filed a petition under 37 CFR 1.47(b).

On 29 June 2007, this Office mailed a decision dismissing the 20 June 2007 petition.

On 29 August 2007, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the 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 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. See 37 CFR 1.47(b).

Petitioner has previously satisfied items (1), (3), (4), and (6) 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 the sole inventor Ryan Egeland refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Dr. Egeland for signature (see supplemental affidavit of Michael Bennett, ¶3). Furthermore, the petition contains sufficient evidence of Dr. Egeland's refusal to cooperate. In particular, Dr. Egeland has failed to respond to repeated telephone and electronic mail messages, has apparently refused to accept delivery of correspondence mailed to him, and has apparently avoided personal contact with an investigator (see original Bennett affidavit). Thus, it can be concluded with reasonable certainty that Dr. Egeland refuses to join in the application.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

In the present case, the petition states that Dr. Egeland agreed in writing to assign the invention to Oxford Gene Technology IP Limited ("OGT"). Petitioner has provided a copy of an agreement signed by Dr. Egeland which grants OGT the exclusive ownership of intellectual property which is the result of work performed by Dr. Egeland during his employment with OGT (see Exhibit 1). Furthermore, petitioner has adequately illustrated that the present invention was made during and contributed to OGT while Dr. Egeland was employed by OGT (see affidavit of Peter Hotten, ¶3, and affidavit of Edwin Southern, ¶4.) Thus, it would be reasonable to conclude that OGT has sufficient proprietary interest in the present application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 15 October 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 June 2007.

As set forth in 37 CFR 1.47(b), 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

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

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

COPY MAILED

MAR 3 1 2008

In re Application of :

ODER, Robin R. et al. :
Application No. 10/574,859 : DECISION ON PETITION
Filed: April 06, 2006 : TO WITHDRAW
Attorney Docket No. **4042-060816** : 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 22, 2008.

The request is **APPROVED**.

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

The request was signed by Kirk Miles on behalf of all attorneys of record who are associated with customer No. 28289. All attorneys/agents associated with the Customer Number 28289 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ROBIN R. ODER**
4919 SIMMONS CIRCLE
EXPORT, PA 15632

cc: **BARBARA E. JOHNSON**
ATTORNEY AT LAW
555 GRANT STREET – SUITE 323
PITTSBURGH, PA 15219

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/14/10 Paper No.: —

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl No.: 10/521,865 Patent No.: 7,634,940 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

☒ **Approved** — All changes apply.

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

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

Comments: Please accept changes made in C of C.

1/20/2010

30 AUG 2006

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Hollingsworth & Funk
8009 34th Avenue South
Suite 125
Minneapolis MN 55425

In re Application of :
Theimer et al. :
Application No. 10/574,876 :
PCT No.: PCT/IB03/04477 :
Int. Filing Date: 10 October 2003 : COMMUNICATION
Earlier Priority Date: NONE :
Atty. Docket No.: BKS.015.WUS :
For: Method And Device For :
Generating A Game Directory :
On An Electronic Gaming Device :

This is in response to the petition under 37 CFR 1.10(d) filed on 05 June 2006.

BACKGROUND

This international application was filed on 10 October 2003, claimed no earlier priority date, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 21 April 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 April 2006. Applicants filed, *inter alia*, the basic national fee on 06 April 2006.

DISCUSSION

Petitioner requests that certain papers filed to enter the national stage be accorded a filing date of 07 April 2006, rather than 06 April 2006 as shown on the return postcard receipt.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition was filed promptly after the filing of the correspondence in question and the return of the postcard receipt, and therefore it complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, EV817397251US, was recorded on the Transmittal Letter which accompanied and itemized the filing of the correspondence in question.

The petition also complies with 37 CFR 1.10(d)(3). Counsel has provided a copy of the Express Mail mailing label, number EV817397251US, which shows a "date-in" of "4-6-06" rather than the desired date of 07 April 2006. However, petitioner has also furnished a copy of a USPS receipt showing that postage was paid for Express Mail parcel number EV817397251US on "04/07/2006." Inspection of the USPS "Track & Confirm" Web page corresponding to the Express Mail mailing label in question shows that the status of the correspondence was "Acceptance, April 07, 2006, 4:58 pm, SAINT PAUL, MN 55111." Based on the totality of the evidence currently of record, it would be appropriate to conclude that 37 CFR 1.10(d)(3) has been satisfied. Accordingly, the correspondence in question (including the Transmittal Letter, the declaration, the preliminary amendment, the specification, the claims, the Remarks, the IDS, the copy of the International Search Report and Notification of Transmittal, and the drawings) is regarded as having been filed on 07 April 2006, as requested.

DECISION

Applicants' petition is **GRANTED**, for the reasons described *supra*.

This application is being forwarded to the National Stage Processing Branch for further processing, including updating the records of the USPTO to reflect the filing of the correspondence described above on **07 April 2006**, and the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

Daniel Stemmer
PCT Legal Examiner
PCT Legal Office

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Peter Rehbein	: DECISION ON REQUEST FOR
Patent Number	: 7638721	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/574,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **77** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

23 MAY 2008

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of FLORACK et al :
U.S. Application No.: 10/574,888 :
PCT Application No.: PCT/NL2004/000708 :
Int. Filing Date: 08 October 2004 :
Priority Date Claimed: 09 October 2003 : DECISION
Attorney Docket No.: 294-248 PCT/US :
For: CHIMERIC CARRIER MOLECULES FOR THE PRODUCTION OF MUCOSAL VACCINES :

This is in response to applicant's "Petition to Revive" filed 17 March 2008.

BACKGROUND

On 08 October 2004, applicant filed international application PCT/NL2004/000708, which claimed priority of an earlier European Patent Office application filed 09 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 09 April 2006.

On 07 April 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that, *inter alia*, a sequence listing must be filed.

On 08 February 2007, applicant filed a sequence listing in both paper and computer readable form.

On 02 October 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 contained certain errors.

On 01 November 2007, applicant filed a substitute sequence listing in computer readable form.

On 21 February 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the substitute sequence listing in computer readable form contained certain errors.

On 17 March 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

With regard to item (3), the petition states, "The entire delay in filing the correct response to the Notice of Defective Response from the due date until the filing of a grantable petition under 37 CFR 1.37(b) was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 08 October 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 February 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,891	04/06/2006	Gen Kumamoto	DK-US030830	3350

7590 03/26/2008

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

EXAMINER	
NELSON, FREDA ANN	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
03/26/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Patent Publication Branch
Office of Data Management

18 MAY 2009

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www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In Re Application of	:	
LAUTON et al.	:	
Application No.: 10/574,913	:	DECISION
PCT No.: PCT/EP04/52465	:	
Int. Filing Date: 07 October 2004	:	
Priority Date: 09 October 2003	:	
Attorney Docket No.:2006-0235A	:	
For: COMPOSITION FOR THE PRETANNING OF PELTS		

This application is before the Office PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371(c) and consideration of applicant's Request for Correct Filing, filed in the United States Patent and Trademark Office (USPTO) on 07 November 2008, which corrected the Request originally filed on 17 September 2008.

On 07 October 2004, applicant filed international application No. PCT/EP04/52465 which claimed a priority date of 09 October 2003 and which designated the United States. The international application named Alain LAUTON, Wolfgang HERRMANN, Jens FENNEN, Catherine GABAGNOU as the inventor/applicants for the US only.

Thereafter, on 07 April 2006, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. Applicant also filed an executed declaration, which identified only three of the four named inventors: Alain LAUTON, Wolfgang HERRMANN, and Catherine GABAGNOU.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 02 May 2008 indicating that an oath or declaration and the surcharge for filing the oath or declaration after the thirty month period was required. On 30 June 2008, applicant submitted an executed declaration which identified only one inventor Jens FENNEN.

On 07 August 2008, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 July 2008.

DISCUSSION

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of

citizenship of each inventor. 37 CFR 1.497(b) requires that the oath or declaration be made by all of the actual inventors. A review of international application PCT/EP04/52465 reveals Alain LAUTON, Wolfgang HERRMANN, Jens FENNEN, Catherine GABAGNOU were named as co-inventors in the published international application.

The declarations submitted on 07 April 2006 and 30 June 2007 are not acceptable because not all the inventors were not listed on each declaration and thus the declarations are not in compliance with 37 CFR 1.497(a) and (b).

Since a proper declaration or oath, in compliance with 37 CFR 1.497(a) and (b) has not been filed in the above referenced application, the Notification of Acceptance mailed on 07 August 2008 was erroneously issued and is hereby VACATED.

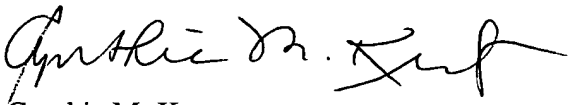
CONCLUSION

For the reasons set forth above, the Notification of Acceptance is **VACATED.** The request to correct filing receipt is **DISMISSED without prejudice**.

The declarations executed by the joint inventors in the above referenced application are unacceptable and are not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), which identifies all the joint inventors and executed by the inventors as listed in the published international application, is required.

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

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



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

30 OCT 2009

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

In re Application of:
TOLEDO ANTONIO, Jose, Antonio, et al.
U.S. Application No.: 10/574,944
PCT No.: PCT/MX2003/000081
International Filing Date: 10 October 2003
Priority Date: None
Attorney Docket No.: 51319
For: CATALYTIC COMPOSITION FOR HYDROPROCESSING OF LIGHT AND INTERMEDIATE OIL FRACTIONS

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 CFR §1.181 And/Or Resubmission Of Response To Notification Of Missing Requirements" filed 02 October 2009, treated herein as a petition to confirm the timely filing of a response to the Notification Of Missing Requirements mailed 05 March 2007. No petition fee is required.

BACKGROUND

On 10 October 2003, applicants filed international application PCT/MX2003/000081. The international application did not claim an earlier priority date, and it designated the United States. On 21 April 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., 10 April 2006.

On 07 April 2006, applicants filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a purported English translation of the international application.

On 05 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing these materials later than thirty months after the priority date were required.

On 02 October 2009, applicants filed the petition considered herein. The petition asserts that, on 21 March 2007, applicants filed a timely and proper response to the Notification Of Missing Requirements.

DISCUSSION

The present petition includes a copy of the materials filed by applicants on 21 March 2007 in response to the Notification Of Missing Requirements (including the executed declaration), as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 21 March 2007. In addition, USPTO records confirm receipt herein of the $130 surcharge payment (and the additional $40 assignment fee) on 21 March 2007.

Based on the statements in the present petition, the attached return postcard, and USPTO records regarding payment of the required surcharge, it is concluded that the materials accompanying the present petition, including the executed declaration and surcharge payment, were originally filed herein on 21 March 2007 as a timely and complete response to the Notification Of Missing Requirements mailed 05 March 2007.

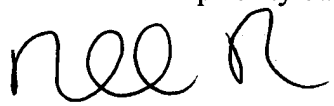
It is noted, however, that the English translation of the international application filed on 07 April 2006 is incomplete. Specifically, the translation includes only 19 claims, while the published international application contains 20 claims. A second Notification Of Missing Requirements will therefore be issued requiring a complete translation of the international application as filed (including claim number 20) and payment of the processing fee for filing the English translation later than thirty months after the priority date.

CONCLUSION

The petition to confirm the timely filing of a response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 05 March 2007 is **GRANTED**.

The declaration, surcharge payment, and additional materials accompanying the present petition are treated as having been originally filed herein on 21 March 2007.

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, including the mailing of a second Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a complete translation of the international application as filed (including claim number 20) and payment of the processing fee for filing the English 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

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

03 JAN 2007

In re Application of	:	
YOKODATE, Shinya et al.	:	
Application No.: 10/574,970	:	DECISION ON
PCT No.: PCT/JP04/08276	:	
Int. Filing Date: 08 June 2004	:	REQUEST
Priority Date: None	:	
Attorney's Docket No.: 288247US2PCT	:	UNDER 37 CFR 1.42
For: MOBILE DEVICE	:	

This is a decision on applicants' 07 April 2006, submission of a declaration containing an indication that a joint inventor is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 08 June 2004, applicants filed international application PCT/JP04/08276. A copy of the international application was transmitted to the Office by the International Bureau on 22 December 2005. The deadline for entry into the national stage in the United States was 08 December 2006.

On 07 April 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 and a declaration.

DISCUSSION

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

The declaration lists the inventors and their citizenships and lists the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. As such, the declaration would comply with 37 CFR 1.42 and 1.497(a)-(b), but the declaration contains foreign language text. The declaration is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69. A statement that the English text is an accurate translation of the Japanese or a new declaration is required.

CONCLUSION

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

Applicant is required to comply with 37 CFR 1.69 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER

37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

30 APR 2008

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1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
YOKODATE, Shinya et al.	:	
Application No.: 10/574,970	:	DECISION ON
PCT No.: PCT/JP04/08276	:	
Int. Filing Date: 08 June 2004	:	REQUEST
Priority Date: None	:	
Attorney's Docket No.: 288247US2PCT	:	UNDER 37 CFR 1.42
For: MOBILE DEVICE	:	

This is a decision on applicants' 05 March 2007 renewed submission of a request for status under 37 CFR 1.42.

BACKGROUND

On 03 January 2007, the Office mailed Decision, dismissing applicants' submission without prejudice, indicating that a statement that the English translation is an accurate translation of the Japanese text under 37 CFR 1.69 was required.

On 05 March 2007, applicants supplied a verification of translation.

DISCUSSION

Applicants have supplied a statement that the English text is an accurate translation of the Japanese.

CONCLUSION

For the reasons discussed above, applicants' 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 for continued processing in accordance with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 07 April 2006.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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07 DEC 2006

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

In re Application of
PÖPEL (Deceased) et al.
Application No.: 10/574,973
PCT No.: PCT/EP04/11258
Int. Filing Date: 08 October 2004
Priority Date: 15 October 2003
Attorney Docket no.: 288240USOPCT
For: CATALYTIC BULK MATERIAL HAVING CATALYTICALLY INACTIVE SHAPED BODIES THAT ARE ROUNDED OFF ON THE EXTERNAL FRICTION SURFACES

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 07 April 2006.

The declaration identified all inventors and was executed by five of six inventors and by Karin Pöpel, identifying her as heir for deceased inventor Wolfgang Jürgen Pöpel. The declaration provides the citizenship, residency and mailing address for all inventors including the deceased inventor as well as the heir's citizenship, residency and mailing address.

However, the declaration identified only one heir. It is unclear whether Ms. Popel is the sole heir. If she is not the sole heir, the declaration must be executed by all of the heirs of the deceased inventor. It is also unclear whether a legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. (Applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.)

In situations where it is not clear that the declaration includes the signatures of all the heirs (e.g., indicates heir/heirs as opposed to sole heir/all heirs), the Office requires a statement by either those signing or the attorney which sets forth that they are in fact all the heirs of the deceased inventor. The statement must also set forth that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

Applicant is required to submit a statement by either those signing or the attorney which sets forth that they are in fact all the heirs of the deceased inventor. Such statement must also set forth that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed.

Applicant must respond within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136.

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

21 JUN 2007

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

In re Application of :
PÖPEL (Deceased) et al. :
Application No.: 10/574,973 :
PCT No.: PCT/EP04/11258 :
Int. Filing Date: 08 October 2004 :
Priority Date: 15 October 2003 :
Attorney Docket no.: 288240USOPCT :
For: CATALYTIC BULK MATERIAL HAVING CATALYTICALLY INACTIVE SHAPED BODIES THAT ARE ROUNDED OFF ON THE EXTERNAL FRICTION SURFACES

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 21 February 2007.

On 07 April 2006, applicant filed a declaration, which identified all inventors and was executed by five of six inventors and by Karin Pöpel, identifying her as heir for deceased inventor Wolfgang Jürgen Pöpel. The declaration provided the citizenship, residency and mailing address for all inventors including the deceased inventor as well as the heir's citizenship, residency and mailing address.

On 07 December 2006, a decision was mailed to applicant indicating that the declaration identified only one heir and it was unclear whether Ms. Popel was the sole heir and whether a legal representative of the deceased's estate had been appointed or was statutorily required to be appointed. Applicant was advised 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 the decision.

On 21 February 2007, applicant provided a statement by Karin Pöpel indicating that she is the sole heir and legal representative of the deceased inventor Wolfgang Jürgen Pöpel.

A closer inspection of the declaration submitted on 07 April 2006 reveals that the declaration appears to be in both the German and English languages. As stated in 37 CFR 1.69(b), unless the text of any oath or declaration in a language other than English is in the form provided by the Patent and Trademark Office..., it must be accompanied by an English translation together with a statement that the translation is accurate. See also MPEP 602.06. It is suggested that applicant employ USPTO Form PTO/SB/105 or that counsel provide a statement that the translation is accurate.

The declaration submitted on 07 April 2006 is unacceptable and is not in compliance with 37 CFR 1.497(a) and (b). Accordingly, it is inappropriate to accord the national stage application

status under 37 CFR §1.42.

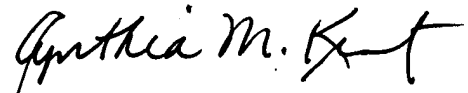
CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **dismissed without prejudice**. The declaration is not yet in compliance with 37 CFR 1.69(b).

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

The application will be held in PCT Legal Office to await applicant's further reply.

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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14 AUG 2007

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

In re Application of :
PÖPEL (Deceased) et al. :
Application No.: 10/574,973 :
PCT No.: PCT/EP04/11258 :
Int. Filing Date: 08 October 2004 :
Priority Date: 15 October 2003 :
Attorney Docket no.: 288240USOPCT :
For: CATALYTIC BULK MATERIAL HAVING CATALYTICALLY INACTIVE SHAPED BODIES THAT ARE ROUNDED OFF ON THE EXTERNAL FRICTION SURFACES

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 24 July 2007.

On 07 April 2006, applicant filed a declaration, which identified all inventors and was executed by five of six inventors and by Karin Pöpel, identifying her as heir for deceased inventor Wolfgang Jürgen Pöpel. The declaration provided the citizenship, residency and mailing address for all inventors including the deceased inventor as well as the heir's citizenship, residency and mailing address.

On 07 December 2006, a decision was mailed to applicant indicating that the declaration identified only one heir and it was unclear whether Ms. Popel was the sole heir and whether a legal representative of the deceased's estate had been appointed or was statutorily required to be appointed. Applicant was advised 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 the decision.

On 21 February 2007, applicant provided a statement by Karin Pöpel indicating that she is the sole heir and legal representative of the deceased inventor Wolfgang Jürgen Pöpel.

On 24 July2007, applicant provided a statement by Roswitha Schoner declaring that the English translation of the "declaration, which was filed on April 7, 2006 is an accurate translation". See also MPEP 602.06.

The declaration submitted on 07 April 2006 is acceptable and is in compliance with 37 CFR 1.497(a) and (b). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration is in compliance with 37 CFR 1.69(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 **07 April 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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NIXON PEABODY, LLP
161 N. CLARK ST.
48TH FLOOR
CHICAGO IL 60601-3213

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Ram ORON et al. :
Application No. 10/574,974 : DECISION ON PETITION
Filed: April 07, 2006 :
Attorney Docket No. **55219-00013USPX** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 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 January 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 18, 2007. Accordingly, the date of abandonment of this application is January 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and Publication Fee is accepted as having been unintentionally delayed.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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JUL 30 2008

OFFICE OF PETITIONS

In re Application of :
Shota Murakami, et. al. :
Application No. 10/574,977 : DECISION ON PETITION
Filed: April 7, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23697-015US1/NF-2981 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Sushil Shrinivasan 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.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 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:

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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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55440-1022

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In re Application of	:	
Shota Murakami, et. al.	:	
Application No. 10/574,977	:	DECISION ON PETITION
Filed: April 7, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23697-015US1/NF-2981	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Sushil Shrinivasan 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.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR1.78(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 does not satisfy item (1) above.

It is noted that the specification filed on August 15, 2008, lists a claim for benefit to Application No. 10/683,629. However, Application No. 10/683,629[1] fails to contain a common inventorship with the present application. Therefore, petitioner must submit a substitute amendment with the correct Application No. 10/683,269.

Additionally, the specification fails to include a claim for priority to PCT/JP04/14732. If petitioner desires to have this application included in the claim for priority, it should be included in the substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 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:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] .Petitioner should note that Application No. 10/683,269 does share common inventorship with the present application.

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

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Shota Murakami, et. al. :
Application No. 10/574,977 : DECISION ON PETITION
Filed: April 7, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23697-015US1/NF-2981 :

This is a decision on the amendment filed June 16, 2009, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT application, as set forth in the concurrently filed amendment.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Sushil Shrinivasan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Shrinivasan desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

A decision on the renewed petition filed on December 19, 2008 was rendered on June 17, 2009. At the time the renewed petition was decided, the undersigned was not aware of the substitute amendment filed by the Electronic Filing System (EFS-web) on June 16, 2009. As such, the substitute amendment crossed with the decision mailed on June 17, 2009. Therefore, per discussion with the attorney listed above on June 17, 2009, the amendment filed by EFS-web on June 16, 2009, is being considered as a renewed petition.

The renewed petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed applications. In order for the 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 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

This application is being forwarded to the examiner of Technology Center Art Unit 3617 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/Andrea M. Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

cc: Sushil Shrinivasan
Fish & Richardson, P.C.
1425 K Street, NW – 11th Floor
Washington, DC 20005-3500

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/574,977	04/07/2006	3617	1260	23697-015US1 / NF-2981	7	1

CONFIRMATION NO. 5933

CORRECTED FILING RECEIPT

26171
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 06/18/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Shota Murakami, Osaka, JAPAN;
Tsuyoshi Yoshida, Osaka, JAPAN;

Power of Attorney:
Walter Renner--41265

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/JP2004/014732 10/06/2004
which is a CON of 10/683,269 10/14/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 02/23/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/574,977**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pin assembly of track roller bogie in crawler type traveling apparatus and crawler type traveling apparatus with the assembly

Preliminary Class

305

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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JUN 18 2009

OFFICE OF PETITIONS

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

In re Application of Shota Murakami, et. al. Application No. 10/574,977 Filed: April 7, 2006 Attorney Docket No. 23697-015US1/NF-2981	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 19, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications set forth in the amendment filed by facsimile transmission on March 9, 2009.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Sushil Shrinivasan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120, 365(c) and 37 CFR1.78(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 does not satisfy item (1) above.

The amendment filed on March 9, 2009, states that the present "application is a continuation of PCT application PCT/JP2004/014732 filed on 10/6/2004 ("PCT Application"). The PCT Application is a continuation of U.S. Patent Application Serial No. 10/683,269." However, it is noted that the amendment fails to contain the proper relationship between the applications. Therefore, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) is required.

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

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
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Randolph Building
401 Dulany Street
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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Seymour Levine
2C Chateaux Circle
Scarsdale, NY 10583

06 JUL 2006

In re Application of	:	DECISION ON
William L. Rubin	:	
Application No.: 10/574,991	:	
PCT No.: PCT/US2004/030170	:	
Int. Filing Date: 15 September 2004	:	PETITION UNDER
Priority Date: 17 September 2003	:	
Attorney's Docket No.: RU271	:	
For: ATMOSPHERIC TURBULENCE HAZARD	:	
DETECTOR	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 08 April 2006. The required fee of $130.00 (the surcharge under 1.492(h) for late filing of the executed declaration) has not been filed.

BACKGROUND

On 15 September 2004, this international application was filed, claiming an earliest priority date of 17 September 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 17 March 2006. This international application became abandoned with respect to the United States at midnight on 17 March 2006 for failure to pay the required basic national fee.

On 08 April 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

The executed declaration cannot be accepted at this time because the payment of the surcharge set forth in § 1.492(h) is required for acceptance of any of the search fee, the examination fee, or the oath or declaration of the inventor after the date of the commencement of the national stage (§ 1.491(a)). See 37 CFR 1.495(c)(3).

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

24 JAN 2007

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Seymour Levine
2C Chateaux Circle
Scarsdale, NY 10583

In re Application of	:	DECISION ON
William L. Rubin	:	
Application No.: 10/574,991	:	
PCT No.: PCT/US2004/030170	:	
Int. Filing Date: 15 September 2004	:	PETITION UNDER
Priority Date: 17 September 2003	:	
Attorney's Docket No.: RU271	:	
For: ATMOSPHERIC TURBULENCE HAZARD DETECTOR	:	37 CFR 1.181

This decision is in response to the "Communication" received 21 July 2006, which is being interpreted as petition under 37 CFR 1.181 indicating that the executed Declaration was properly filed in the international stage for the above application.

BACKGROUND

In a decision from this Office on 06 July 2006, the petition for revival filed on 08 April 2006 was granted. The decision, however, stated that the executed declaration could not be accepted at such time because of the failure to pay the surcharge set forth under § 1.492(h) for submitting the declaration after the date of commencement.

In response to the "Decision" mailed on 06 July 2006, on 21 July 2006, applicants filed the current petition starting that an executed declaration was filed under Rule 4.17, and a copy of this, Sheet No. 3 of the REQUEST, accompanied the petition.

DISCUSSION

A review of the file reveals that the USPTO had received the executed Declaration on 15 September 2004 submitted under PCT Rule 4.17.

DECISION

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

The executed declaration was submitted timely, and the statement in the last decision that the executed declaration could not be accepted was in error. The executed declaration is accepted as being timely.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **08 April 2006.**

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

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21 JUL 2006

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of BRUER et al :
U.S. Application No.: 10/575,018 :
PCT Application No.: PCT/EP04/11061 :
Int. Filing Date: 04 October 2004 : DECISION
Priority Date Claimed: 06 October 2003 :
Attorney Docket No.: 2584SG-3 :
For: INSULATING ELEMENT FROM MINERAL FIBERS FOR SHIPBUILDING :

This is in response to applicant's "Request for Correction of National Phase Filing Date" filed 08 June 2006, which is being treated as a petition under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

On 04 October 2004, applicant filed international application PCT/EP04/11061, which claimed priority of an earlier European Patent Office application filed 06 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 April 20006.

On 06 April 2006, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was accorded a receipt date of 07 April 2006.

On 08 June 2006, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail"

> mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware of the accorded receipt date of the national stage papers.

With regard to item (2) above, a review of the certificate of mailing and the copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3) above, the petition does not sufficiently establish that the national stage papers were deposited in Express Mail prior to the last scheduled pickup on 06 April 2006. Specifically, the petition does not include evidence from the USPS or that came into being after deposit and within one business day of the deposit of the national stage papers in Express Mail. See MPEP 513, VI. PETITION TO CORRECT INCORRECTLY ENTERED DATE-IN, which states, "Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as 'Express Mail' may be in the form of a log book which contains information such as the 'Express Mail' number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log."

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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27 SEP 2006

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of BRUER et al	:	
U.S. Application No.: 10/575,018	:	
PCT Application No.: PCT/EP04/11061	:	
Int. Filing Date: 04 October 2004	:	DECISION
Priority Date Claimed: 06 October 2003	:	
Attorney Docket No.: 2584SG-3	:	
For: INSULATING ELEMENT FROM MINERAL FIBERS FOR SHIPBUILDING	:	

This is in response to applicant's "Renewed Petition under 37 C.F.R 1.10(d)" filed 11 August 2006.

BACKGROUND

On 04 October 2004, applicant filed international application PCT/EP04/11061, which claimed priority of an earlier European Patent Office application filed 06 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 April 20006.

On 06 April 2006, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was accorded a receipt date of 07 April 2006.

On 08 June 2006, applicant filed a petition under 37 CFR 1.10(d).

On 21 July 2006, this Office mailed a decision dismissing the 08 June 2006 petition.

On 11 August 2006, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the petition does not sufficiently establish that the national stage papers were deposited in Express Mail prior to the last scheduled pickup on 06 April 2006. Although the affidavits of Eddie Abeyta constitute an adequate showing that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 06 April 2006, 37 CFR 1.10(d)(3) specifically states, "Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS." (Emphasis added.) The renewed petition does not include evidence from the USPS or that came into being after deposit and within one business day of the deposit of the national stage papers in Express Mail. See MPEP 513, VI. PETITION TO CORRECT INCORRECTLY ENTERED DATE-IN, which states, "Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as 'Express Mail' may be in the form of a log book which contains information such as the 'Express Mail' number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log."

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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18 JUN 2007

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of BRUER et al :
U.S. Application No.: 10/575,018 :
PCT Application No.: PCT/EP04/11061 :
Int. Filing Date: 04 October 2004 : DECISION
Priority Date Claimed: 06 October 2003 :
Attorney Docket No.: 2584SG-3 :
For: INSULATING ELEMENT FROM MINERAL FIBERS FOR SHIPBUILDING :

This is in response to applicant's "Renewed Petition under 37 C.F.R 1.10(d)" filed 31 October 2006 and "Supplemental Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. § 1.137(b)" filed 13 June 2007.

BACKGROUND

On 04 October 2004, applicant filed international application PCT/EP04/11061, which claimed priority of an earlier European Patent Office application filed 06 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 April 20006.

On 06 April 2006, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was accorded a receipt date of 07 April 2006.

On 08 June 2006, applicant filed a petition under 37 CFR 1.10(d).

On 21 July 2006, this Office mailed a decision dismissing the 08 June 2006 petition.

On 11 August 2006, applicant filed a renewed petition under 37 CFR 1.10(d).

On 27 September 2006, this Office mailed a decision dismissing the 11 August 2006 renewed petition.

On 31 October 2006, applicant filed a renewed petition under 37 CFR 1.10(d).

On 13 June 2007, applicant filed a petition under 37 CFR 1.137(b).

DISCUSSION

I. Renewed Petition Under 37 CFR 1.10(d)

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the petition does not sufficiently establish that the national stage papers were deposited in Express Mail prior to the last scheduled pickup on 06 April 2006. The original and first supplemental affidavits of Eddie Abeyta constitute an adequate showing that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 06 April 2006. However, sufficient corroborating evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in Express Mail has not been provided. The present renewed petition refers to a letter sent to Grosse Bockhorni & Schumacher ("GBS") which states that U.S. application papers had been filed on 06 April 2006. The supporting declaration of Susan Willson mentioned in the petition is not present. In any event, Ms. Willson is not the person who deposited the correspondence in Express Mail, and her letter sent to GBS is not equivalent to a log book entry which contains information such as the Express Mail number, the place, date and time of deposit, the time of the last scheduled pick-up for that date and place of deposit, the depositor's initials or signature, and the date and time of entry in the log." See MPEP 513. The petition further states that several other Express Mail letters that were deposited on 06 April 2006 were received by

the USPTO on the same day as the present application. It is noted that the second supplemental declaration of Eddie Abeyta mentioned in the petition is not present. In any case, the fact that letters arrive at the destination on the same date does not establish that the letters had the same date of deposit. For example, a letter deposited at 11:59 p.m. one evening and a letter deposited at 12:01 a.m. the next morning may very well arrive on the same day since they were deposited only minutes apart. Moreover, the presented evidence does not discount the possibility that the Express Mail letters purportedly deposited at the same time as the correspondence in question were the ones that were assigned an incorrect deposit date. The petition questions the deposit date assignment procedures of the USPS but does not provide any evidence from the USPS that supports the theory that the USPS might have erred.

II. Petition Under 37 CFR 1.137(b)

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

For the reasons set forth in §II 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 04 October 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 04 May 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 Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

17 AUG 2006

SHERIDAN ROSS P.C.
1650 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of	:	
KELLER et al.	:	DECISION
Application No.: 10/575,019	:	
PCT No.: PCT/EP2004/011062	:	
Int. Filing Date: 04 October 2004	:	
Priority Date: 06 October 2003	:	
Attorney's Docket No.: 2584SG-5	:	
For: FIRE PROTECTION GATE AND CORRELATED FIRE PROTECTION INSET	:	

This decision is in response to applicants' "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE" filed on 08 June 2006, which has been treated as a petition under 37 CFR 1.10(d).

BACKGROUND

On 04 October 2004, applicants filed international application PCT/EP2004/011062, which designated the U.S. and claimed a priority date of 06 October 2003. A copy of the international application was communicated to the 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 06 April 2006.

On 07 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation of the international application.

On 08 June 2006, applicants filed the instant "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE", which has been treated as a petition under 37 CFR 1.10(d).

DISCUSSION

A review of the application papers located in the application file reveals that they were stamped with a receipt date of 07 April 2006. The "Express Mail" label number EV788583237US is shown on the transmittal letter which itemizes the items being filed. The copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label accompanying the petition contains the same "Express Mail" label number.

The copy of the Finance Copy of Express Mail mailing label #EV788583237US shows a "Date In" of "4706".

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
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> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition provides a satisfactory showing under 37 CFR 1.10(d)(1) and (2).

As to item (3), applicant has not provided a satisfactory showing. No evidence from the USPS has been provided nor has any evidence that came into being after deposit and within one business day of the deposit of the correspondence with the USPS been provided, as required by 37 CFR 1.10(d)(3). Accordingly, it is inappropriate, on the present record, to accord the international application an international filing date of 06 April 2006.

The declarations of Carol Werner and Eddie Abeyta have been considered. The declaration of Carol Werner indicates that Mr. Abeyta did not return with a receipt for Express Mail mailing label #EV788583237US. However, 37 CFR 1.10(b) cautions against depositing correspondence without receiving a copy of the Express Mail mailing label. ("Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the Express Mail mailing label with the date-in clearly marked.")

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED** without prejudice.

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 1.10(d)." No additional

petition fee is required.

The application is abandoned as to the United States of America for failure to pay the U.S. Basic National Fee within thirty months from the earliest priority date.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

19 SEP 2006

SHERIDAN ROSS P.C.
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of	:	
KELLER et al.	:	
Application No.: 10/575,019	:	
PCT No.: PCT/EP2004/011062	:	SUPPLEMENTAL
Int. Filing Date: 04 October 2004	:	
Priority Date: 06 October 2003	:	DECISION
Attorney's Docket No.: 2584SG-5	:	
For: FIRE PROTECTION GATE AND	:	
CORRELATED FIRE PROTECTION INSET	:	

A decision was mailed 17 August 2006 on applicants' petition filed 08 June 2006. However, the decision was returned to the USPTO as being undeliverable. A review of the correspondence address revealed that an incorrect correspondence address was used (1650 BROADWAY was used rather than 1560 BROADWAY). The decision is being re-mailed herewith by enclosing a copy of the original decision with this Supplemental Decision. The time limit set forth in the enclosed decision runs from the mailing date of this Supplemental Decision rather than the mailing date of the original decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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17 AUG 2006

SHERIDAN ROSS P.C.
1650 BROADWAY
SUITE 1200
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In re Application of	:	
KELLER et al.	:	DECISION
Application No.: 10/575,019	:	
PCT No.: PCT/EP2004/011062	:	
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For: FIRE PROTECTION GATE AND CORRELATED FIRE PROTECTION INSET	:	

This decision is in response to applicants' "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE" filed on 08 June 2006, which has been treated as a petition under 37 CFR 1.10(d).

BACKGROUND

On 04 October 2004, applicants filed international application PCT/EP2004/011062, which designated the U.S. and claimed a priority date of 06 October 2003. A copy of the international application was communicated to the 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 06 April 2006.

On 07 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation of the international application.

On 08 June 2006, applicants filed the instant "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE", which has been treated as a petition under 37 CFR 1.10(d).

DISCUSSION

A review of the application papers located in the application file reveals that they were stamped with a receipt date of 07 April 2006. The "Express Mail" label number EV788583237US is shown on the transmittal letter which itemizes the items being filed. The copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label accompanying the petition contains the same "Express Mail" label number.

The copy of the Finance Copy of Express Mail mailing label #EV788583237US shows a "Date In" of "4706".

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
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> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition provides a satisfactory showing under 37 CFR 1.10(d)(1) and (2).

As to item (3), applicant has not provided a satisfactory showing. No evidence from the USPS has been provided nor has any evidence that came into being after deposit and within one business day of the deposit of the correspondence with the USPS been provided, as required by 37 CFR 1.10(d)(3). Accordingly, it is inappropriate, on the present record, to accord the international application an international filing date of 06 April 2006.

The declarations of Carol Werner and Eddie Abeyta have been considered. The declaration of Carol Werner indicates that Mr. Abeyta did not return with a receipt for Express Mail mailing label #EV788583237US. However, 37 CFR 1.10(b) cautions against depositing correspondence without receiving a copy of the Express Mail mailing label. ("Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the Express Mail mailing label with the date-in clearly marked.")

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED** without prejudice.

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 1.10(d)." No additional

petition fee is required.

The application is abandoned as to the United States of America for failure to pay the U.S. Basic National Fee within thirty months from the earliest priority date.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived.

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
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United States Patent and Trademark Office
P.O. Box 1450
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06 DEC 2006

SHERIDAN ROSS P.C.
1650 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of	:	
KELLER et al.	:	DECISION
Application No.: 10/575,019	:	
PCT No.: PCT/EP2004/011062	:	
Int. Filing Date: 04 October 2004	:	
Priority Date: 06 October 2003	:	
Attorney's Docket No.: 2584SG-5	:	
For: FIRE PROTECTION GATE AND CORRELATED FIRE PROTECTION INSET	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.10(d)" filed on 20 November 2006.

BACKGROUND

On 04 October 2004, applicants filed international application PCT/EP2004/011062, which designated the U.S. and claimed a priority date of 06 October 2003. A copy of the international application was communicated to the 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 06 April 2006.

On 07 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation of the international application.

On 08 June 2006, applicants filed a "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE", which was treated as a petition under 37 CFR 1.10(d).

On 25 August 2006, 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 pay the U.C. Basic National Fee within thirty months from the earliest priority date.

On 19 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.10(d) without prejudice. Specifically, it was noted that applicants had not made a satisfactory showing under 37 CFR 1.10(d)(3).

On 20 November 2006, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.10(d)".

DISCUSSION

A review of the application papers located in the application file reveals that they were stamped with a receipt date of 07 April 2006. The "Express Mail" label number EV788583237US is shown on the transmittal letter which itemizes the items being filed. The copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label accompanying the petition contains the same "Express Mail" label number.

The copy of the Finance Copy of Express Mail mailing label #EV788583237US shows a "Date In" of "4706".

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
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As noted in the decision mailed 19 September 2006, a satisfactory showing under 37 CFR 1.10(d)(1) and (2) has been provided.

As to item (3), a satisfactory showing has still not been provided. The declaration of Susan Willson and Exhibits A, B, and D-K have been considered but are not persuasive. Exhibit A is a copy of a letter from Susan Willson to a foreign associate confirming filing of documents with the USPTO. Exhibit B is a copy of a facsimile transmission report showing Exhibit A as having been transmitted on 07 April 2006 at 1:50 p.m. The declaration of Susan Willson states that it is her custom and practice to confirm filing of documents with the USPTO prior to delivering correspondence to the client or foreign associate. However, the declaration does not state how filing of the documents with the USPTO was confirmed. For example, was a log looked at to see what correspondence had been mailed? Or was confirmation based on something else, for example, a signed Certificate of Deposit with Express Mail? Clarification is

required. If confirmation was based on a log, then a copy of the log should be provided. The declaration of Susan Willson also states that after "receiving the Decision of the USPTO . . ., I reviewed the USPS Track and Confirm Search Results for such application and other applications deposited at the same time on April 6, 2006". Exhibits D-K show USPS Track and Confirm Search Results for various Express Mail mailing label numbers, including Express Mail mailing label #EV788583237US. The results for each Express Mail mailing label number show delivery to the USPTO on 10 April 2006 at 6:48 a.m. and that each item was signed for by an S DYAR. Again, however, the declaration does not state how these other applications and the Express Mail mailing label numbers that corresponded with these applications were obtained. Again, if a log was used, then a copy of the log should be provided.

The declaration of Eddie Abeyta filed 20 November 2006 has also been considered but is not persuasive. (The declaration refers to an earlier declaration of Eddie Abeyta of 08 August 2006. However, the only declarations of Eddie Abeyta in the application file are dated 06 June 2006 and 14 November 2006.) The declaration merely states the customary practice that Mr. Abeyta follows for depositing Express Mail. The declaration of Eddie Abeyta dated 06 June 2006 has been reconsidered. That declaration states that "I requested copies of the Express Mail receipts from the Post Office for all items sent on April 6 and 7, 2006". However, the declaration does not indicate how the request was made. For example, were receipts for particular Express Mail mailing label numbers requested? If so, how were these numbers obtained? Or did the request, for example, ask for all receipts from a particular sender having a date-in of April 6, 2006 or April 7, 2006? Clarification is required.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED** without prejudice.

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 1.10(d)." No additional petition fee is required.

The application reamins abandoned as to the United States of America.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived.

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,

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

15 JUN 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

SHERIDAN ROSS P.C.
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In re Application of	:	
KELLER et al.	:	DECISION
Application No.: 10/575,019	:	
PCT No.: PCT/EP2004/011062	:	
Int. Filing Date: 04 October 2004	:	
Priority Date: 06 October 2003	:	
Attorney's Docket No.: 2584SG-5	:	
For: FIRE PROTECTION GATE AND CORRELATED FIRE PROTECTION INSET	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.10(d)" filed on 19 March 2007 and applicants' "SUPPLEMENTAL PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 CFR 1.137(b)" filed 13 June 2007.

BACKGROUND

On 04 October 2004, applicants filed international application PCT/EP2004/011062, which designated the U.S. and claimed a priority date of 06 October 2003. A copy of the international application was communicated to the 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 06 April 2006.

On 07 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation of the international application.

On 08 June 2006, applicants filed a "REQUEST FOR CORRECTION OF NATIONAL PHASE FILING DATE", which was treated as a petition under 37 CFR 1.10(d).

On 25 August 2006, 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 pay the U.C. Basic National Fee within thirty months from the earliest priority date.

On 19 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.10(d) without prejudice. Specifically, it was noted that applicants had not made a

satisfactory showing under 37 CFR 1.10(d)(3).

On 20 November 2006, applicants submitted a "RENEWED PETITION UNDER 37 CFR 1.10(d)".

On 22 January 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.10(d) without prejudice. Specifically, it was again noted that applicants had not made a satisfactory showing under 37 CFR 1.10(d)(3).

On 19 March 2007, applicants submitted a "RENEWED PETITION UNDER 37 CFR 1.10(d)".

On 13 June 2007, applicants submitted a "SUPPLEMENTAL PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 CFR 1.137(b)."

DISCUSSION

Petition Under 37 CFR 1.10(d)

A review of the application papers located in the application file reveals that they were stamped with a receipt date of 07 April 2006. The "Express Mail" label number EV788583237US is shown on the transmittal letter which itemizes the items being filed. The copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label accompanying the petition contains the same "Express Mail" label number.

The copy of the Finance Copy of Express Mail mailing label #EV788583237US shows a "Date In" of "4706".

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
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> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As noted in the decision mailed 19 September 2006, a satisfactory showing under 37 CFR 1.10(d)(1) and (2) has been provided.

As to item (3), a satisfactory showing has still not been provided. The supplemental declarations of Susan Wilson, Eddie Abeyta, and Carol Werner filed 19 March 2007 have been considered. The supplemental declaration of Susan Wilson states that it is the custom and practice to confirm filing of the documents "by communicating with the staff members responsible for depositing accountable mail with the USPS" and that she communicated with Ms. Carol Werner on 07 April 2006. The supplemental declaration of Carol Werner states that she sent an e-mail to the foreign associate Grosse Bockhorni & Schumacker (GBS) confirming that the four applications were completed and filed via Express Mail at *5:23 p.m. on 06 April 2006*. She then communicated this information to Susan Wilson on 07 April 2006. The third supplemental declaration of Eddie Abeyta states that he deposited the documents on 06 April 2006 on or about *6:20 p.m.* Thus, it appears that Ms. Werner's confirmation of delivery occurred *before* actual delivery. As Susan Wilson's confirmation appears to be based on Ms. Werner's confirmation, it would also be faulty.

Regarding the third supplemental declaration of Eddie Abeyta, the decision mailed 06 December 2006 indicated that Mr. Abeyta's declaration of 06 June 2006 states that "I requested copies of the Express Mail receipts from the Post Office for all items sent on April 6 and 7, 2006". However, the declaration does not indicate how the request was made. For example, were receipts for particular Express Mail mailing label numbers requested? If so, how were these numbers obtained? Or did the request, for example, ask for all receipts from a particular sender having a date-in of April 6, 2006 or April 7, 2006? Clarification was required. However, the third supplemental declaration of Mr. Abeyta does not provide any clarification.

Petition Under 37 CFR 1.137(b)

The petition filed 13 June 2007 requests that the petition under 37 CFR 1.137(b) be considered in the alternative to the petition under 37 CFR 1.10(d). Since the petition under 37 CFR 1.10(d) is dismissed for the reasons set forth above, the petition under 37 CFR 1.137(b) is now considered.

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 April 2006.

As to item (2), applicant submitted the petition fee on 08 June 2006. (An additional $750

has been charged to Deposit Account 19-1970. Applicant paid the petition fee for a small entity. However, an assertion of small entity status does not appear in the application file. See 37 CFR 1.27(c).)

As to item (3), peitioner's statement that the "entire delay in entering the U.S. national phase was unintentional" has been construed as meaning that the "entire delay in filing the required reply (The required reply being the U.S. Basic National Fee.) from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED** without prejudice.

For the reasons set forth above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

02 OCT 2006

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Alexandria, VA 22313-1450
www.uspto.gov

Stephen F. Swinto, Jr.
Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, NY 12207

In re Application of	:	
NOZULAK, Joachim et al.	:	
Application No.: 10/575,040	:	DECISION
PCT No.: PCT/EP04/10938	:	
Int. Filing Date: 30 September 2004	:	ON PETITION UNDER
Priority Date: 01 October 2003	:	
Docket No.: VAND-0030-US	:	37 CFR 1.137(b)
For: BENZISOXAZOLES	:	

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 05 April 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. 50-0999.

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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John L. Haack
MERCHANT & GOULD
P.O. Box 2903
Minneapolis, MN 55402-0903

09 JUL 2007

In re Application of	:	DECISION ON
BRADLEY et al	:	
Application No.: 10/575,061	:	
PCT No.: PCT/GB2004/004313	:	
Int. Filing Date: 11 October 2004	:	PETITION UNDER
Priority Date: 09 October 2003	:	
Attorney Docket No.: 15271.0012USWO	:	
For: MEASUREMENT OF MELTING POINTS OF SAMPLES	:	37 CFR 1.181

This decision is in response to applicants' "executed declaration" filed on 21 February 2007 with the correct name of the second inventor as Jean Francois THABURET. This is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 11 October 2004, applicants filed international application No. PCT/GB2004/004313, which claims a priority date of 09 October 2003.

On 07 April 2006, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee, but no executed declaration.

On 30 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

On 21 February 2007, applicants filed an executed declaration. In the declaration section pertaining to the second named inventor, the name Jean Francois THABURET appears; this name did not appeared in the international application which is Jeff Francois THABURET.

DISCUSSION

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

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

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

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

In this instance, applicants have not provided the petition fee and have not explained the reason for the name change.

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

In addition, the declaration of the inventors is not acceptable at this time, in that the name of the second named inventor has been improperly altered to reflect the correct second inventor's first given name. Applicants have provided a defective declaration because there are alterations on it - lines across the information on it. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52.

A proper response to this decision is a new oath or declaration in compliance with 37 CFR 1.497 with the correct spelling of the second inventor's given name.

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

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". 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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27 MAY 2008

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John L. Haack
MERCHANT & GOULD
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of	:	DECISION ON
BRADLEY et al	:	
Application No.: 10/575,061	:	
PCT No.: PCT/GB2004/004313	:	
Int. Filing Date: 11 October 2004	:	PETITION UNDER
Priority Date: 09 October 2003	:	
Attorney Docket No.: 15271.0012USWO	:	
For: MEASUREMENT OF MELTING POINTS OF SAMPLES	:	37 CFR 1.182

This is in response to applicants' submission "RENEWED PETITION UNDER 37 C.F.R. 1.181," filed on 04 January 2008, which is being treated as petition under 37 CFR 1.182. This submission states that the correct applicant's name is Jean-Francois THABURET not Jeff-Francois THAUBURET for the second joint inventor. The petition fee of $400.00 has been charged petitioner's Deposit Account No.: 13-2725 as stipulated on the petition.

BACKGROUND

In a 09 July 2007 decision from this Office, the decision indicated that the application could not enter into national stage at that time since it was unclear if the current name was a result of a to a incorrect name filed or typographical error.

On 04 January 2008, applicant filed a petition under 37 CFR 1.182 indicating that the correct name is "Jean-Francois THABURET" and not as listed "Jeff-Francois THABURET."

DISCUSSION

The correct name of the second inventor is "Jean-Francois THABURET" as indicated in the declaration submitted. The affidavit provided states that his correct and legal name is Jean-Francois THABURET and not Jeff, which is informal name and was the name he was introduced to his attorney. Jean's correct name will be reflected in the U.S. national stage processing.

However, the declarations filed on 04 January 2008 is defective since they do not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, petitioner submitted a composite declaration comprising of only one complete correct executed declaration signed by Jean-Francois THABURET. The composite executed declaration filed on 21 February 2007 and signed by Mr. Bradley is defective as explained in the decision mailed by this Office on 09 July 2007 because it has been improperly altered.

Accordingly, the application may not enter into national stage processing at this time because an improperly composite executed declaration has been submitted.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response to this communication is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this communication. Failure to respond will result in the abandonment of the application.

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

05 MAR 2009

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P.O BOX 1450
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John L. Haack
MERCHANT & GOULD
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of
BRADLEY et al
Application No.: 10/575,061
PCT No.: PCT/GB2004/004313
Int. Filing Date: 11 October 2004
Priority Date: 09 October 2003
Attorney Docket No.: 15271.0012USWO
For: MEASUREMENT OF MELTING POINTS OF SAMPLES

: DECISION ON

: PETITION UNDER

: 37 CFR 1.182

This is in response to applicants' submission "Renewed Petition Under 37 CFR 1.181" filed on 19 November 2008, which is being treated as a petition under 37 CFR 1.182. Applicants have now filed a corrected composite executed Declaration that has the second listed inventor as Jean-Francois THABURET.

BACKGROUND

In a decision from this Office on 27 May 2008, it stated that the executed declaration was an improper composite executed declaration.

On 19 November 2008, applicants submitted the current petition, which included a new executed Declaration with the second named inventor listed correctly as Jean-Francois THABURET.

DISCUSSION

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 30 November 2006. Applicants have submitted a properly executed composite declaration.

DECISION

The petition under 37 CFR 1.182 is **GRANTED** that the correct name of the second joint inventor is Jean-Francois THABURET and a properly submitted composite declaration has been filed.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying the 35 U.S.C. §371(c)(1), (c)(2,) and (c)(4) date as **19 November 2008**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

30 MAR 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
SUZUKI	:	
Application No.: 10/575,107	:	DECISION ON PETITION
PCT No.: PCT/JP03/14864	:	
Int. Filing Date: 21 November 2003	:	UNDER 37 CFR 1.181
Priority Date: 10 October 2003	:	
Atty Docket No.: 289354US2X PCT	:	
For: SPRAY GLOW DISCHARGE IONIZATION METHOD AND SYSTEM	:	

This is a decision on applicant's request for correction of "Notice of Acceptance" as to the date of completion of the 35 U.S.C. 371 requirements filed 17 May 2007 and again on 25 September 2008 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 10 April 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 translation of the international application into English and an Application Data Sheet.

On 13 December 2006, applicant filed an executed declaration of the inventor.

On 28 February 2007, 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 10 April 2006.

On 17 May 2007 and again on 25 September 2008, applicant filed the present petition claiming that the 371 requirements were satisfied on 13 December 2006.

DISCUSSION

A review of the application file finds applicant's declaration was filed on 13 December 2006 and that an executed oath or declaration of the inventor was not provided on initial filing. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 21 November 2003 under 35 U.S.C. 363 and will be given a date of **13 December 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 28 February 2007 indicating a date of 10 April 2006 under 35 U.S.C. 371(c) 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Ryo Aburatani, et al. :
Application No.: 10/575,109 : ON PETITION
Filed: December 12, 2006 :
Attorney Docket No.: 289571US0PCT :

This is a decision on the petition, filed February 26, 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 February 23, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1796 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,112	07/11/2006	Michael Wilson	GRT/117-581	9398

23117 7590 04/06/2010

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

EXAMINER	
MACAULEY, SHERIDAN R	

ART UNIT	PAPER NUMBER
1651	

MAIL DATE	DELIVERY MODE
04/06/2010	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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APR 0 6 2010

Gary R. Tanigawa
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of : WILSON et al. :
:
Serial No.: 10/575,112 : DECISION ON PETITION
Filed: April 10, 2006:
Attorney Docket No.: GRT/117-581 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on January 28, 2010.

BACKGROUND

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

On august 6, 2008 the examiner set forth a lack of unity restricting the claims into three groups and requiring an election of species with respect to bacteriophages and photosensitizers.

In the paper of November 10, 2008 applicant elected Group I, claims 1-12 and 31. The species "staphylococcal bacteriophage" and chlorin were elected. The election was made with traverse with regard to Group I, however, no arguments in traversal of the election of species was made.

In the Office Action of March 2, 2009 the examiner maintained the holding of lack of unity and additionally indicated claims 6 and 7 as withdrawn because they were drawn to a non-elected species.

In the response of July 2, 2009 applicant traversed the examiner's withdrawal of claims 6 and 7. applicant asserted that specific bacteriophages of claims 6 and 7 belong to the elected species staphylococcal bacteriophage.

In the Final Rejection of November 13, 2009 the examiner stated:

> Applicant's election with traverse of Group I (claims 1-12 and 31) and a staphylococcal bacteriophage as the species of bacteriophages and SNC36 as the species of photosensitizers in the reply filed on November 10, 2008 was acknowledged

and made final in the previous office action. In applicant's arguments, filed July 9, 2009, applicant argues that claims 6 and 7, which recite various species of bacteriophage, should be examined with the elected species of bacteriophage because some of the phages recited therein fit into the elected species "staphylococcal bacteriophage." This is not, however, found to be persuasive. In the requirement for restriction mailed on August 8, 2008, it was requested that applicant elect a single species of bacteriophage from the species recited in claims 2, 6 and 7. As exemplary species, staphylococcal bacteriophage, phage 53 and phage 75 were listed. Applicant elected "staphylococcal bacteriophage," therefore, claims not reciting the elected species have been withdrawn. The requirement is still deemed proper and has been made final.

In the petition of January 28, 2010 petitioner states "Applicants disagree with the Examiner's conclusion because claims 6-7 do read on the elected species of staphylocccal bacteriophage."

In addition, "Claim 2 is not separately patentable from claims 6 and 7."

Petitioner argues:

"Election of species should not be required between claimed species that are considered clearly patentable (obvious) over each other." M.P.E.P. § 808.01(a). Here, this two-way test is not satisfied and withdrawal of claims 6-7 is not justified because, if a claim specific for "phage 75" were obvious, then the claim broadened to "staphylococcal bacteriophage" would be obvious too (of course, this does not necessarily apply to the converse because the limitation "phage 75" may confer patentability even if the limitation "staphylococcal bacteriophage" does not). Therefore, a finding is requested that an election of species between "staphylococcal bacteriophage" and the specific staphylococcal bacteriophages listed in claims 6-7 should not have been required.

DISCUSSION

806.04(e) [R-5] Claims Limited to Species
Claims are definitions >or descriptions< of inventions. Claims >themselves< are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated a generic or genus claim).
Species * always >refer to< the * different embodiments >of the invention<.
Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

(f) " Markush Practice " . The situation involving the so-called "Markush practice" wherein a single claim defines alternatives (chemical or non-chemical) is also governed by Rule 13.2. In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.

(i) 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.

(e) When dealing with alternatives, if it can be shown that at least one Markush alternative is not novel over the prior art, the question of unity of invention should be reconsidered by the examiner. Reconsideration does not necessarily imply that an objection of lack of unity will be raised. *Administrative Instructions Under the PCT Annex B, Part 1(f)*

Bacteriophage represents a genus among which are those specific for Staphyloccus which are further seperable into phage specific for a plurality of species of Staphylocci and phage which are specific for a single species of Staphyloccus. Thus, staphyloccal bacteriophage is a genus of phages which in some sense are specific for Staphylocci. While different phage may not be species in a biological sense they are species within the definitions of both US and PCT restriction practice.

The requirement for an election of species set forth by the examiner with regard to claims 2, 6 and 7 is confusing as it does not clearly set forth what the examiner envisions as a species. In addition, it does not set forth an explanation as to how the Markush groups of claims 6 and 7 nor the staphyloccal bacteriophage fail to meet the requirements for lack of unity.

Applicant's traversal is similarly opaque in that it presents arguments with regard to US practice whereas the instant claims are subject to PCT lack of unity practice. In addition, claim 6 contains a Markush group of bacteriophages not all of which are specific for Staphylococci yet applicant has stated that claims 2, 6 and 7 are not patentably distinct.

The examiner's requirement for an election of species failed to present an analysis consonant with the requirements set forth in the Administrative Instructions Under the PCT.

Assuming that there is motivation to utilize photodynamic therapy with bacteriophages as the targeting moiety is there motivation to select particular groups of bacteriophages. Carlton (1999) reviews the state of phage therapy and suggests its potential utility in treating antiobiotic-resistant infections (see particularly page 272). Carlton provides motivation for selecting specifc bacteriophages and for phage therapy in general. Thus, the limitation to "staphyloccal bacteriophage" in claim 2 and the Markush group of bacteriophages in claim 6 lack a common special technical feature. Claim 7 is limited to two phages specific for *Staphylococcus aureus* which phages are also recited in claim 6. Claim 6 additionally includes 8 phages specific for *Staphylococcus aureus*.

The original holding of Lack of Unity is modified to the extent that the specifically identified phages of claim 7, and the 8 additional *Staphylococcus aureus* phages in claim 6 will be rejoined with claims 1 and 2.

DECISION

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

The outstanding Office Action will be withdrawn and the application returned to the examiner for examination of claims 1, 2, 6 and 7 to the extent that they read on *Staphylococcus aureus* bacteriophage.

Should there be any questions about this decision, please contact Quality Assurance Specialist Michael P. Woodward, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-8373 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Irem Yucel
Director, Technology Center 1600

Notice of References Cited	Application/Control No. 10/575,112	Applicant(s)/Patent Under Reexamination WILSON ET AL.	
	Examiner MP WOODWARD	Art Unit 1600	Page 1 of 1

U.S. PATENT DOCUMENTS

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Review

Phage Therapy: Past History and Future Prospects

RICHARD M. CARLTON

Exponential Biotherapies, Inc., 150 Main Street, Port Washington, NY 11050, USA

Abstract. Bacterial viruses (bacteriophages, also called "phages") can be robust antibacterial agents *in vitro*. However, their use as therapeutic agents, during a number of trials from the1920s to the 1950s, was greatly handicapped by a number of factors. In part, there were certain limitations inherent in phage physiology (e. g. narrow host range, and rapid clearance from the body); in part there were technological limitations in the era (e.g. lysogeny not yet discovered); but the greatest limitation was the highly inadequate scientific methodologies used by practitioners at the time (e.g., their failure to conduct placebo-controlled studies, to remove endotoxins from the preparations, and to re-confirm phage viability after adding sterilizing agents to the preparations). In recent years, well-controlled animal models have demonstrated that phages can rescue animals from a variety of fatal infections, while non-controlled clinical reports published in Eastern Europe have shown that phages can be effective in treating drug-resistant infections in humans. This encouraging data, combined with the fact that drug-resistant bacteria have become a global crisis, have created a window of opportunity for phage therapy to be tested anew, this time using modern technologies and placebo-controlled designs. If successful, it can be used as a stand-alone therapy when bacteria are fully resistant to antibiotics, and as a valuable adjunct to antibiotics when the bacteria are still susceptible.

Key words: bacteriophage; phage; bacterial viruses; bacterial infections; multidrug resistance.

Phages are a kingdom of viruses that infect bacteria, and are distinct from the animal and plant viruses. Phages can have either a "lytic" or a "lysogenic" life cycle. The lytic phages are the most suitable candidates for phage therapy, because they quickly reproduce within and lyse the bacteria in their host range, growing exponentially in number in the process. Depending on the species and conditions, each "parent" phage can produce on average approximately 200 "daughters" per lytic cycle. If each daughter infects and kills a host bacterium there will be 40 000 progeny at the end of the 2nd cycle; 8 million at the end of the 3rd cycle; 1.6 billion at the end of the 4th cycle; and so on.

Some practitioners used phages as therapeutic agents in the West, from the 1920s to the early 1950s (referred to hereinafter as the "historic era"). This review will describe: 1) some of the key reasons this form of therapy failed to take root in the West; 2) its previous and current use in some enclaves of Eastern Europe; 3) recent animal models which suggest that phage therapy might be useful for humans; 4) the fact that the emergence of antibiotic-resistant infections has opened a second window of opportunity for phage therapy; and 5) the advantages that might be gained by administering phages along with antibiotics, as a combination therapy.

Past History

General information

A number of reviews provide details on phage therapy's ascent and decline in the historical era[1-3, 13, 14].

Table 1. Attributes of phages that tend to favor a therapeutic response

The issue	Limitations of antibiotics	Advantages of phages
Fate of the "drug" molecule	Metabolic destruction of the molecule, as it works	Exponential growth in numbers, so that the "drug" makes more of itself at the site of infection, where it is needed
Concentration of the "drug" required to kill a given bacterium within the spectrum	Numerous molecules of the antibiotic are needed to kill a given bacterium. During initiation of therapy (and between doses), the sub-lethal dose that bacteria "see" affords them the opportunity to express resistance genes	"All or nothing" effect: one phage particle is sufficient to kill a given bacterium
Ability to overcome bacterial resistance	Antibiotics are fixed, immutable chemicals that cannot adapt to a bacterial mutation and therefore become obsolete. Bacteria that have resisted them can pass along the resistance trait within and between species	Phages are "living" organisms that undergo mutations, some of which can overcome bacterial mutations. E. g., mutated phage tail fibers can allow binding to a mutant bacterial receptor, or mutated phage DNA can escape cleavage by mutant bacterial endonucleases
Spread of bacterial resistance	The antibiotics in use tend to be broad spectrum, thereby provoking resistance in several species and genera of bacteria (in addition to the one targeted)	Although there are some exceptions, phages tend not to cross species boundaries. Thus even though the targeted bacterial species may become resistant to the phage, it is unlikely that other species will

We will summarize some of the more salient features of this history.

Phages were discovered in 1915 by British microbiologist Felix Twort, and, independently in 1917, by French-Canadian microbiologist Felix d'Hérelle. Twort did not pursue his discovery, whereas d'Hérelle systematically investigated the nature of bacteriophages and explored their ability to function as therapeutic agents[5, 6].

D'Hérelle received a fair measure of fame for his discovery. He was appointed Professor of Protobiology at Yale University Medical Center, and was also on the staff of the Pasteur Institute. In 1931 he gave a series of monthly lectures on phage therapy to the New York Academy of Medicine. He established phage therapy centers in several countries, including the U. S., France, and Soviet Georgia. A fictionalized account of his work was depicted in Arrowsmith, the Pulitzer-prize winning novel by Sinclair Lewis.

There are many attributes of phages (see Table 1) that would tend to favor a positive outcome in therapy.

Despite these attributes of phages, there were so many problems with the way phage therapy was practiced in the historical era that, by the time antibiotics were introduced in mid-century, it was already in sharp decline in the West. The investigators who developed antibiotics did not make the kinds of mistakes exhibited by the early phage investigators.

Key problems with phage therapy, and how the problems can be overcome

Problem 1. Host range

The issue. Phages tend to have a relatively narrow host range, posing certain disadvantages. A disadvantage is that one should administer only those phage strains shown to be strongly lytic for the bacterial strain infecting the given patient. If the patient's condition is too critical to take the time required for this matching, then one should use a grouping (a panel) of phages, where each of the phages therein has a broad-enough host range that most strains of the bacterial target are likely to be targeted. In his lectures to the New York Academy of Medicine in 1931, d'Hérelle cited the reports of other colleagues whose initial trials used phages "off the shelf" (without being shown to be virulent for the bacteria infecting the patient) and had negative outcomes, but who did match the phage to the bacteria in subsequent trials and obtained positive outcomes.

The solution. 1) Screen the bacteria infecting a given patient against a panel of phages, to ensure that one of the phage strains will be lytic (analogous to the "culture and sensitivity test" that physicians should perform; and 2) develop "multivalent" phages that lyse all or most of the bacterial strains within a given species of pathogen.

Problem 2. Bacterial debris present in the phage preparations

The issue. Injection of even minute amounts of endotoxin and other bacterial debris can be fatal to patients. Unfortunately, many of the phage preparations used by practitioners in the historical era were crude lysates. When these preparations were injected i.v., i.p., and in some cases even intrathecally, any beneficial effect of the phages would likely have been counteracted by illness and deaths resulting from the endotoxin.

The solution. Modern technology allows density centrifugation, banding, and other methods of purification.

Problem 3. Attempts to remove host bacteria from therapeutic preparations

The issue: In order to ensure that phage preparations would not contain live bacteria, some early investigators added mercurials and/or oxidizing agents, while others heated them. It is now known that such agents and procedures will denature or otherwise inactivate the phage coat proteins. These investigators did not check for continued viability of the phages. The false-negative results of such studies were the unintended (but inevitable) consequence of such practices.

The solution: Sterile filtration. If chemical agents must be used, retitrate the preparation over time to ensure that the phage remain viable.

Problem 4. Rapid clearance of phages

The issue. In fairness to phage investigators in the historical era, at the time it was not an accepted practice, in any discipline, to conduct pharmacokinetic studies. However, had the early phage investigators conducted such studies, they would have discovered that bacteriophages (being foreign proteins) tend to be rapidly cleared from the circulation. This clearance problem was first documented by Merril and his colleagues in 1973 who injected high titers of phage lambda into non-immune germ-free mice. They discovered that the phages were rapidly cleared by the spleen, liver and other filtering organs of the reticulo-endothelial system (RES)[7]. This was a seminal observation, given Gunther Stent's widely-accepted statement that one of the principal reasons phages had failed as a therapeutic was their supposed inactivation by pre-existing antibodies to them. However, any clearance of the phages from the bloodstream of the germ-free animals used by Merril and his group (ref.[7]) would not be due to antibodies, since those animals had never previously been exposed to bacteria or bacteriophages (and so would not have antibodies). Moreover, the phages in Merril's experiment remained viable in the spleens of these animals over a period of several days, indicating that they were neither neutralized by antibody nor engulfed by macrophages. Rather, they appeared to have been passively entrapped in (sequestered by) these filtering organs. Such trapped phages would be unavailable to reach bacteria.

The solution. The author of this review collaborated with investigators at the U.S. National Institutes of Health (MERRIL et al.[11]) in the development of a method to isolate and amplify phage strains that are cleared at a slower rate. We reasoned that in all species of phage, minor variations in coat proteins might be present that would enable some variants to be less easily recognized by the RES organs and to thereby remain in the circulation for longer periods of time than the "average" wild-type phage. In this "serial passage" method, the wild-type preparation is injected into an animal, and then blood samples are taken at progressively longer time points. Any phages found in the blood sample are grown to high titer and reinjected. Through iterative rounds of passage, one can amplify the long-circulating strains being isolated. U.S. and PCT patents have been granted on this method.

For coliphage lambda as well as for salmonella phage P22, phage variants were isolated in this manner that were much longer-circulating than the wild-type. For example, for every 100 000 particles of the wild-type lambda used at baseline, only one particle remained in circulation at 18 h; whereas for the long-circulating phage mutant isolated at the 8th round of serial passage, for every 100 000 injected, at 18 h 62 500 particles remained in circulation. For each moment of time, far more of these long-circulating phages are propagating exponentially, as compared to the situation for the wild-type phages.

As predicted, these long-circulating phages were far superior to the wild-types from which they were derived, in terms of rescuing animals from an otherwise-fatal fulminant bacteremia: 1) with no treatment, all animals were dead within 48 h; 2) treatment with the wild-type phages prevented death, but the animals became critically ill (a human with such degrees of illness would be in the intensive care unit); and 3) in contrast, with administration of the long-circulating phage strain, the only sign of illness seen was mild lethargy. These results were published in the Proceedings of the National Academy of Sciences (ref. [11]), and were accompanied by a Commentary by Nobel laureate Dr. JOSHUA LEDERBERG[8].

We have elucidated the molecular basis of the mutation in lambda that reduced its rate of clearance: a single point mutation, an A to G transition, had occurred in the gene encoding the major head protein E. This mutation substituted a basic amino acid (lysine) for an acidic one (glutamic acid), causing a double charge shift readily seen on 2D gel electrophoresis. Computer modeling predicted that the mutation occurred in a loop of the E protein that sticks out into space and that therefore may interact with the external environment. A double charge shift in this region of a protein that is highly represented on the surface of the virion could conceivably alter the phage's interaction with the microcirculation of the spleen, in such a way that the mutant phage is less easily entrapped than the wild-type.

Problem 5. Lysogeny

The issue. It was not until the late 1950s that Lwoff demonstrated the ability of some phage genomes to integrate into the bacterial chromosome as "prophages". After a period of time (up to days or weeks, or longer), such prophages can enter the lytic cycle, and will thus appear as plaques on a bacterial lawn. It is likely that some phage therapy trials in the historic era had a negative outcome due to the inadvertent use of phage strains that, being lysogens, could not provide the rapid lysis and exponential growth in numbers that are needed for full efficacy.

The solution. Use only phages that are lytic; sequence phages that are strong candidates for clinical trials, looking for (among other things) homologies to known genes of lysogeny.

Problem 6. Anti-phage antibodies

The issue. There are reports in the literature[20] that neutralizing antibodies appear a few weeks after administering phages to humans or animals. Given the time lag, antibodies would not seem likely to interfere with an acute treatment lasting a week or so. However, in chronic treatment, or in treatment of a recurrence of the same bacterial infection, the neutralizing antibodies might prevent some proportion of the administered dose of phages from being able to adhere to the bacterial target.

The solution. In treating chronic or recurrent infections it may be possible to administer a higher dose of phage, to compensate for those that are rendered non-viable by interaction with neutralizing antibodies. In any case, the types and titers of antibodies that develop should be systematically studied in humans.

Problem 7. Failure to establish scientific proof of efficacy

In scholarly reviews of comparative styles of research, Dutch historian TON VAN HELVOORT[24] has discussed d'Hérelle's systematic failure to conduct double-blind studies. As van Helvoort pointed out, while it is true that ethical problems are faced by anyone who has to administer placebo to some patients (in order to prove efficacy), nevertheless the investigators who later tested antibiotics did conduct double-blind, placebo-controlled trials. Van Helvoort points out that, even when using phages to treat an epidemic of diarrhea in poultry on a French farm, d'Hérelle failed to use a placebo on half the flock (a situation where ethical considerations would not have been an issue). As a consequence, all reports of phage therapy's successes in the historical era were anecdotal. No systematic proof was available to demonstrate that the results were reliable and repeatable.

Problem 8. The scientific style of phage investigators in the historical era

D'Hérelle's failure to conduct placebo-controlled studies, even on chickens, is an important example of his style. This story is a notable example of the negative impact an investigator's personality can have on the outcome of a discovery, and d'Hérelle's style contrasts sharply to the strongly positive influence that other scientists (such as Pasteur) have had on the outcomes of their discoveries. Whereas Pasteur excelled at conceiving of definitive experiments, and was persuasive in style, d'Hérelle failed to conduct definitive experiments, and was antagonistic rather than persuasive.

For example, d'Hérelle maintained to the end that phages are the sole mechanism of defense against bacterial infection. While he may have been correct in his view that epidemics can sometimes be checked by the spontaneous appearance of a lytic strain of phage, nevertheless he was incorrect in categorically dismissing the discoveries of Nobel laureates Metchnikoff and Ehrlich, who had shown that cellular elements (white blood cells) and humoral elements (antibodies and complement) constitute the innate host defenses against infection. D'Hérelle was afforded many opportunities to integrate his discovery with those of Metchnikoff and Ehrlich, but refused to the end (see below).

In addition to the damage he was doing to himself and his cause with this adamance, d'Hérelle was attacked by Nobel laureate Jules Bordet (for whom *Bordetella pertussis* was named), who had an intense dislike not just for d'Hérelle's science but also for the man himself. Bordet used his considerable influence to discredit D'HÉRELLE[5].

D'Hérelle retreated from attacks by Bordet and others, and moved to Soviet Georgia in the 1930s (see ref. [13]). An ardent communist, he dedicated the last of his published treatises to Josef Stalin. He was in Paris at the outbreak of World War II, refused to offer his skills with phage therapy to the Germans*, and spent the occupation years in prison. By the time of the liberation his health had been broken. He was invited to a post-War international scientific symposium, where colleagues made a last effort to see if they could help him bridge the gulf. He persisted in his belief that phages were the body's sole mechanism of defense against bacteria ("Ce n'est *que* la phage..."), and he died in isolation in 1949.

Surely the prospects of phage therapy in the historical era would have been better served if d'Hérelle had possessed some of the personality traits and scientific style of Pasteur.

Animal Models of Phage Therapy

From the 1950s to the 1980s there was little published on the subject of phage therapy. Then papers began to appear demonstrating the utility of phage therapy in animal models. For example, phages were shown to be effective in rescuing rats from fatal systemic infections (induced with *E. coli*)[14] in rescuing calves and lambs from fatal diarrhea (induced with *E. coli*)[15, 16], in rescuing chicks from fatal diarrhea (induced with *S. typhimurium*)[4], and in preventing destruction of skin grafts in burned rabbits by *Pseudomonas aeruginosa*[18]. As mentioned above MERRIL et al.[11] demonstrated in 1996 that mice with fulminant *E. coli* bacteremia could be rescued by phages, and that long-circulating phage variants were superior to the wild-types (see below).

In one of those studies cited, Smith and Huggins (ref. [6]) demonstrated that, in rats inoculated with a lethal intramuscular dose of *E. coli*, a single injection of a phage preparation was more effective than multiple injections of antibiotics (chloramphenicol, tetracycline, etc.). This work was replicated in 1997 by LEVIN and BULL[9], who used mathematical modeling in a population dynamics approach to study the titers of phages and bacteria in the animals. The investigators concluded that the reason a single injection of phage was superior to multiple injections of antibiotics was that the phages grew exponentially in number, overwhelming the bacteria present.

Current Status of Human Phage Therapy Efforts

Poland. Phage therapy is practiced in Poland, albeit on a small scale. In the mid-1980s a series of papers was published by a group led by the late Prof. S. Ślopek and his colleagues, including Dr. M. Mulczyk and Dr. B. Weber-Dąbrowska, working at the L. Hirszfeld Institute of Immunology and Experimental Therapy (a branch of the Polish Academy of Sciences). These papers[20–23] reported on 550 cases of suppurative bacterial infections (empyemas, peritonitis, osteomyelitis, etc.) in humans. Most of the cases were chronic; most were resistant to all available antibiotics; and most had not been referred for this form of therapy until all else had failed, meaning that it was often quite late in the disease progression.

The bacterial pathogens targeted included *Staphylococcus aureus, Pseudomonas aeruginosa, Klebsiella pneumoniae* and *E. coli*. The phages used by these investigators are reported to have cured approximately 90% of the cases. The criteria of cure were cessation of suppuration and, where applicable, complete closure of wounds/fistulae (many of which had been draining for months).

These investigators administer phages orally, because they are aware of the hazards of administering them parenterally (not all of the bacterial debris has been removed). They pre-treat the patients with antacids and gelatin in order to protect the phages from destruction by gastric acidity. These same investigators have published evidence that phages administered orally to humans in this manner do in fact reach the bloodstream[26].

The Polish investigators have been rigorous in matching the phages to the bacterial strain infecting the given patients. Their practice, as stated in the published reports, is to culture the bacteria during the course of treatment, so that the occurrence of a mutant resisting the phage can be countered by switching to a different phage strain. The group also has panels of multivalent phages available, for use in fulminant infections (such as septicemia with acute respiratory distress syndrome) where time is insufficient to classify the offending bacteria or to match phages to bacteria.

The group now has statistics on the treatment of approximately 1 300 cases. The overall cure rate across the spectrum of pathogens and sites of infection is approximately 86% (personal communication from Dr. B. Weber-Dąbrowska).

A criticism of the work by Ślopek's group is that

* The push of the German army into the region of Georgia was intended not only to capture the region's oil wells, but also to obtain the collection of phages manufactured at the Eliava-d'Hérelle Institute in Tblisi. That institute was providing phages to the Russian army, to control dysentery, *Staphylococcus aureus* infections of wounds, and other bacterial problems associated with war.

the absence of placebo controls means the power of suggestion cannot be definitively ruled-out. It is clear that the difficulties of that nation's economy over recent decades has denied the investigators the financial resources needed to enroll matched cohorts in a placebo arm of a clinical trial. While the criticism is valid, and absolute proof of principle can be obtained only through placebo-controlled trials, nevertheless the usefulness of the data is improved by the detailed statistical accounting of the percentages of complete, partial and nil response. One of the factors that enables this author to find the data from Poland more believable (even in the absence of double-blind proof) is that in conditions such as emphysema where phage efficacy might be somewhat impeded, the group's statistics show that the success rate is considerably lower than for other conditions where such impediments do not obtain*.

The Republic of Georgia. The work started in Tblisi in the 1930s by d'Hérelle and his Georgian colleague, Eliava, continues to this day. In the 1970s, under the direction of Dr. Teimuraz Chanishvili, the Eliava-d'Hérelle Institute had a large staff manufacturing considerable quantities of phage preparations per year, primarily for the control of dysentery in the troops of the Soviet Army. This group has anecdotal evidence of the efficacy of phage therapy. They report, for example, that in certain adult and pediatric hospitals it is routine for their phage preparations to be administered topically on surgical incisions. Given the lack of statistical analysis, there is little to be said other than the anecdotal reports are encouraging that phage therapy can be useful.

Multidrug-Resistant (MDR) Bacteria Have Created a Need for Phage Therapy

Several species of bacteria have become resistant to most antibiotics, with some strains being resistant to all antibiotics. One example is vancomycin-resistant *Enterococcus faecium* (VRE), a low-virulence pathogen that now frequently causes fatal bacteremias due to complete resistance[2]. Another example is vancomycin intermediate-resistant *Staphylococcus aureus* (VISA), strains of which have recently emerged in three nations (Japan, U.S. and Scotland), and are known to have killed 4 patients to date. Such strains spread throughout Japanese hospitals within a year of their first appearance. Unfortunately, it has been demonstrated that some hospital strains of methicillin-resistant *S. aureus* (MRSA) that are widespread have become vancomycin resistant upon exposure of the patients to vancomycin[1, 2]. Experts predict that *S. aureus* will progress to become completely resistant to vancomycin (the antibiotic of last resort for most strains of this pathogen), and that when this occurs, millions of people will die each year from infections that had until recently been fairly easy to control. Based on such developments and impending developments with pathogens such as MRSA and VRE, opinion leaders have been warning that we are entering the "Post-Antibiotic Era".

While pharmaceutical companies are developing new antibiotics to counter the trend, it has been shown that half a century of global antibiotic abuse has equipped the surviving bacteria with "supergenes" that enable them to quickly resist new classes of antibiotics, even those to which they have never been exposed[1]. Examples of the "supergenes" are mutations that 1) enable bacteria to pump out several classes of antibiotics (through an efficient efflux pump), or that 2) alter the antibiotic binding sites on ribosomal subunits, so that several different classes of antibiotics can no longer inhibit those subunits. As a consequence, in recent years, by the time newer antibiotics have gone through clinical trials and have reached the market, 20% or more of clinical isolates in the hospitals are already resistant to them at the time of regulatory approval, and within a few more years the majority of strains are resistant.

Future Prospects for Phage Therapy

Infectious disease experts have warned that there is now a compelling need to develop totally new classes of antibacterial agents, ones that cannot be resisted by the same genes that render bacteria resistant to antibiotics.

Phage therapy represents such a "new" class. We believe that the impediments cited above (bacterial debris in the preparations, rapid clearance in the body, etc.) can be overcome, freeing up the phages so that their attributes (such as exponential growth, and the ability to mutate against resistant bacteria) can be used to great advantage.

There are 3 additional attributes of phages that should be noted:

Host specificity. While the host specificity is somewhat of a drawback (requiring a matchup of phage to bacterial target, and/or the development of highly multivalent phages), it also offers the great advantage that the phages will not kill other species of bacteria.

* Conditions where phage efficacy is predicted to be reduced would include 1) hypoxic sites, where bacterial replication is slower and therefore phage replication is reduced; and 2) chronic obstructive pulmonary disease, where high acidity and proteases would be expected to inactivate some percentage of the phages.

Thus, e.g., phage therapy is not likely to kill off the healthy flora of the intestines, lungs or urogenital tract, and it is therefore unlikely to provoke the illnesses and deaths seen when antibiotics cause overgrowth of pathogens (such as *Clostridia difficile* and *Candida albicans*).

Genetic engineering. It is possible to genetically engineer phages to express new traits of potential value. In so doing, scientists will have to deal with the legitimate concerns of regulatory agencies concerning recombinant organisms. The regulatory obstacles may be well worth the price, given the powerful engineering tools that are currently available.

Ideal candidates for co-therapy with antibiotics. If a given bacterium acquires resistance to a phage (e.g. by a mutation in the receptor site or in the endonuclease enzymes), that mutation is not likely to "teach" the bacterium to resist the antibiotics (which do not target those structures). Similarly, if a given bacterium acquires resistance to an antibiotic (e. g. by a mutation in the reflux pump or in the ribosomal subunits), that mutation is not likely to "teach" the bacterium to resist the phage (which does not target those structures). Thus, if the bacterium is exposed to both agents, the odds are remote that any resistance genes it starts to express (or acquires anew) will enable it to survive. There are reports that bacteria tend to mutate against antibiotics once in every 10^6 divisions, while they tend to mutate against phages once in every 10^7 divisions. Therefore the odds of a given bacterium mutating against a phage and an antibiotic at the same time would be the product of $10^6 \times 10^7$, meaning it would likely take 10^{13} bacterial divisions for such a double mutation to occur. Given that low probability, the co-administration of phages and antibiotics may help prevent the emergence of bacterial resistance to antibiotics, thereby greatly prolonging their clinical usefulness (and *vice versa*). Just as multiple classes of anti-HIV medications are administered to AIDS patients, to prevent the emergence of resistant strains of that virus, so it is that co-therapy with phages and antibiotics may also prove to be of great clinical value.

Conclusion

Multidrug-resistant bacteria have opened a second window for phage therapy. Modern innovations, combined with careful scientific methodology, can enhance mankind's ability to make it work this time around. Phage therapy can then serve as a stand-alone therapy for infections that are fully resistant. It will also then be able to serve as a co-therapeutic agent for infections that are still susceptible to antibiotics, by helping to prevent the emergence of bacterial mutants against either agent.

References

1. ACKERMANN H. -W. and DUBOW M. (1987): Viruses of prokaryotes I: General properties of bacteriophages (chapter 7). Practical applications of bacteriophages. CRC Press, Boca Raton, Florida.
2. ALISKY J. et al. (1998): Bacteriophages show promise as antimicrobial agents. J. Infect., **36**, 5–15.
3. BARROW P. A. and SOOTHILL J. S. (1997): Bacteriophage therapy and prophylaxis: rediscovery and renewed assessment of the potential. Trends Microbiol., **5**, 268–271.
4. BERCHIERI A. et al. (1991): The activity in the chicken alimentary tract of bacteriophages lytic for *Salmonella typhimurium*. Res. Microbiol., **142**, 541–549.
5. D'HÉRELLE F. (1917): Sur un microbe invisible antagoniste des bac. dysentériques. Crit. Rev. Acad. Sci. Paris, **165**, 373.
6. D'HÉRELLE F. (1922): The bacteriophage: its role in immunity. Williams and Wilkens Co. /Waverly Press, Baltimore, USA.
7. GEIER M., FRIGG M. E. and MERRIL C. (1973): Fate of bacteriophage lambda in non-immune germ-free mice. Nature, **246**, 221–222.
8. LEDERBERG J. (1996): Commentary. Proc. Natl. Acad. Sci. USA, **93**, 3167–3168.
9. LEVIN B. and BULL J. J. (1996): Phage therapy revisited: the population biology of a bacterial infection and its treatment with bacteriophage and antibiotics. Am. Naturalist, **147**, 881–898.
10. LEVY S. (1992): The antibiotic paradox. Plenum Press, New York.
11. MERRIL C. et al. (1996): Long-circulating bacteriophage as antibacterial agents. Proc. Natl. Acad. Sci. USA, **93**, 3188–2192.
12. MURRAY B. (1998): Diversity among multidrug-resistant Enterococci. Emerging Infect. Dis., **4**, 37–47.
13. SHRAYER D. (1996): Felix d'Hérelle in Russia. Bull. Inst. Pasteur, **94**, 91–96.
14. SMITH H. W. and HUGGINS R. B. (1982): Successful treatment of experimental *E. coli* infections in mice using phage: its general superiority over antibiotics. J. Gen. Microbiol., **128**, 307–318.
15. SMITH H. W. and HUGGINS R. B. (1983): Effectiveness of phages in treating experimental *E. coli* diarrhoea in calves, piglets and lambs. J. Gen. Microbiol., **129**, 2659–2675.
16. SMITH H. W. and HUGGINS R. B. (1987): The control of experimental *E. coli* diarrhea in calves by means of bacteriophage. J. Gen. Microbiol., **133**, 1111–1126.
17. SMITH T. et al. (1999): Emergence of vancomycin resistance in *Staphylococcus aureus*. N. Engl. J. Med., **340**, 493–501.
18. SOOTHILL J. S. (1992): Treatment of experimental infections of mice with bacteriophages. Med. Microbiol., **37**, 258–261.
19. SUMMERS W. C. (1998): D'Hérelle. Yale University Press (in press).
20. ŚLOPEK S. and KUCHAREWICZ-KRUKOWSKA A. (1987): Immunogenic effect of bacteriophage in patients subjected to phage therapy. Arch. Immunol. Ther. Exp., **35**, 553–561.
21. ŚLOPEK S., KUCHAREWICZ-KRUKOWSKA A., WEBER-DĄBROWSKA B. and DĄBROWSKI M. (1985): Results of bacteriophage treatment of suppurative bacterial infections. IV. Evaluation of

the results obtained in 370 cases. Arch. Immunol. Ther. Exp., **33**, 219–240.
22. ŚLOPEK S., KUCHAREWICZ-KRUKOWSKA A., WEBER-DĄBROWSKA B. and DĄBROWSKI M. (1985): Results of bacteriophage treatment of suppurative bacterial infections VI. Analysis of treatment of suppurative staphylococcal infections. Arch. Immunol. Ther. Exp., **33**, 261–273.
23. ŚLOPEK S., WEBER-DĄBROWSKA B., DĄBROWSKI M. and KUCHAREWICZ-KRUKOWSKA A. (1987): Results of bacteriophage treatment of suppurative bacterial infections in the years 1981–1986. Arch. Immunol. Ther. Exp., **35**, 569–583.
24. VAN HELVOORT T. (1992): Bacteriological and physiological research styles in the early controversy on the nature of the bacteriophage phenomenon. Med. Hist., **36**, 243–270.
25. WALDVOGEL F. (1999): New resistance in *Staphylococcus aureus*. N. Engl. J. Med., **340**, 556–557.
26. WEBER-DĄBROWSKA B., DĄBROWSKI M. and ŚLOPEK S. (1987): Studies on bacteriophage penetration in patients subjected to phage therapy. Arch. Immunol. Ther. Exp., **35**, 563–568.

Received in May 1999
Accepted in June 1999

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16 SEP 2008

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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

In re Application of:
IIDA, Shigeru, et al.
U.S. Application No.: 10/575,114
PCT No.: PCT/JP2004/015317
International Filing Date: 08 October 2004
Claimed Priority Date: 09 October 2003
Attorney's Docket No.: BJS-249-422
For: ANTIBODY COMPOSITION SPECIFICALLY BINDING TO GANGLIOSIDE GM2

DECISION

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Correct Inventor's Name" filed 02 September 2008. Applicants have submitted the required petition fee.

BACKGROUND

The procedural background for the present application was set forth in the Communication mailed on 08 August 2008. The Communication indicated that, before the declaration filed on 09 June 2008 could be accepted, a grantable petition under 37 CFR 1.182 to correct the name of record for the third inventor was required.

On 02 September 2008, applicants filed the "Petition Under 37 CFR 1.182 To Correct Inventor's Name" considered herein.

DISCUSSION

The present petition includes payment of the required $400 petition fee. The petition also includes the required statement from the third inventor confirming that, due to divorce and a subsequent marriage, the inventor's name was legally changed from Miho URAKUBO (as listed on the original international application) to Miho INOUE and then to her current name, Miho TAKABE (as listed on the declaration filed 09 June 2008). These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for this inventor from to Miho TAKABE.

Based on the correction of the name of the third inventor, the declaration filed on 09 June 2008 is no longer defective.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for the third inventor to Miho TAKABE is **GRANTED**.

Based on this correction, the declaration filed 09 June 2008 is acceptable in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 June 2008.

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

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Ronald I Eisenstein
Nixon Peabody
100 Summer Street
Boston, MA 02110-2131

Mail Date: 04/21/2010

Applicant	: Charles R Cantor	: DECISION ON REQUEST FOR
Patent Number	: 7655399	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,119	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **110** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	: Andreas Neyer	: DECISION ON REQUEST FOR
Patent Number	: 7630592	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,125	: 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 **130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/575,133	12/20/2006	Douglas A. Abbott	1700.191USU	9341

7590 10/24/2008

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

EXAMINER	
SMALLEY, JAMES N	

ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
10/24/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

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Kerrie A. Laba
Carlson, Gaskey & Olds
400 W. Maple Road
Suite 350
Birmingham, MI 48009

Mail Date: 04/21/2010

Applicant	: Jae-Hyuk Oh	: DECISION ON REQUEST FOR
Patent Number	: 7575099	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,139	: 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 **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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K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX, NY 10471-0900

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SEP 16 2009

OFFICE OF PETITIONS

In re Application of :
Istvan Eros, et al. :
Application No. 10/575,145 : ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. 23565 :

This is a decision on the petition, filed July 13, 2009, to revive the above-identified application under 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the final Office action mailed December 24, 2008. This decision precedes the mailing of a Notice of Abandonment. On July 13, 2009 the present petition was filed, including a Notice of Appeal and fee. It is noted that an Appeal Brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)) was filed on September 9, 2009.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

The application is being referred to Technology Center AU 1614 for further prosecution.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,179	01/16/2007	Atsushi Maeda	289402US2PCT	6734

22850 7590 05/04/2009

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

EXAMINER	
LEE, DOUGLAS S	

ART UNIT	PAPER NUMBER
2121	

NOTIFICATION DATE	DELIVERY MODE
05/04/2009	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

In re Application of:
MAEDA, ATSUSHI
Application No. 10/575,179
Filed: April 10, 2006
For: DISPLAY APPARATUS FOR CONVEYOR

DECISION ON PETITION UNDER 37 CFR 1.181 TO INVOKE SUPERVISORY REVIEW

This is a decision on the petition filed February 17, 2009 under 37 CFR 1.181 to request consideration of the Information Disclosure Statement filed on December 16, 2008.

RECENT PROSECUTION BACKGROUND

November 17, 2008 -Notice of Allowability mailed.

December 16, 2008 -Information Disclosure Statement filed.

February 17, 2009 - Petition filed under 37 C.F. R. 1.181(a) and Issue Fee paid.

RELIEF REQUESTED

Petitioner filed the instant petition on February 17, 2009 requesting the Information Disclosure Statement of December 16, 2008 be considered.

Petitioner argues the following outstanding issues:

(1) The Information Disclosure Statement conforms to the requirements of 37 CFR 1.97-1.98.

(2) Copies of the Chinese Office Action and Document (AO) with English translations were also submitted with the IDS filed on December 16, 2008.

Petitioner requests the Information Disclosure Statement of December 16, 2008 be considered.

ANALYSIS

The relevant sections of the MPEP concerning consideration of Information Disclosure Statements are MPEP §609 and 37 CFR 1.97 and 1.98.

MPEP §609 states in part:

III. INFORMATION DISCLOSURE STATEMENT FILED AFTER MAILING OF FINAL ACTION, NOTICE OF ALLOWANCE, OR AN *EX PARTE QUAYLE* ACTION (37 CFR 1.97(c)) BUT PRIOR TO PAYMENT OF ISSUE FEE (37 CFR 1.97(d))

An information disclosure statement will be considered by the examiner if filed on or after the mailing date of any of the following: a final action under 37 CFR 1.113; a notice of allowance under 37 CFR 1.311; or an action that closes prosecution in the application, e.g., an *Ex parte Quayle* action, but before or simultaneous with payment of the issue fee, provided the statement is accompanied by:

(A) a statement as specified in 37 CFR 1.97(e) (see the discussion in subsection V; and

(B) the fee set forth in 37 CFR 1.17(p).

These requirements are appropriate in view of the late stage of prosecution when the information is being submitted, i.e., after the examiner has reached a final determination on the patentability of the claims presented for examination. Payment of the fee (37 CFR 1.17(p)) and submission of the appropriate statement (37 CFR 1.97(e)) are the essential elements for having information considered at this advanced stage of prosecution, assuming the content requirements of 37 CFR 1.98 are satisfied.

See MPEP 609.04(b) Timing Requirements for an IDS.

37 CFR 1.97 states in part:

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p).

(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:

(1) The statement specified in paragraph (e) of this section; and

(2) The fee set forth in § 1.17(p).

(e) A statement under this section must state either:

(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

37 CFR 1.98 states in part:

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(3)

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)

(4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

The question to be addressed is whether the Information Disclosure Statement of December 16, 2008 should be considered by the Examiner.

A review of the record reveals that the Information Disclosure Statement was filed before payment of the issue fee and was accompanied by: (1) The statement specified in paragraph (e) of 37 CFR 1.97 and (2) The fee set forth in § 1.17(p) as required by MPEP 609 and 37 CFR 1.97.

Further, in accordance with MPEP 609 and 37 CFR 1.98, the Petitioner provided a legible copy of the foreign patent, a concise explanation of the relevance of the patent, a copy of the translation of a non-English-language document, or portion thereof, and an identification of each foreign patent or published foreign patent application by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

Therefore, the Information Disclosure Statement meets all the requirements of 37 CFR 1.97 and 1.98.

Accordingly the petition to have the Examiner consider the Information Disclosure Statement of December 16, 2008 is **GRANTED.**

The application is being forwarded to examiner for consideration of the Information Disclosure Statement of December 16, 2008. From there, the application will be forwarded to Publications Branch to complete preparation for issue.

Any questions regarding this decision should be directed to the undersigned at (571)272-3719.

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

15 JUN 2010

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38441
LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. Burleson Blvd.
Suite 107-328
Burleson, TX 76028

In re Application of :
SEMBRITZKY *et al* :
U.S. Application No.: 10/575,195 :
PCT No.: PCT/US2004/009828 : **DECISION**
Int. Filing Date: 31 March 2004 :
Priority Date: None :
Attorney Docket No.: 0837RF-H562 :
For: AXIAL SWAGE ALIGNMENT TOOL :

This decision is in response to the papers filed on 26 August 2009 which are treated under 37 CFR 1.181 and **GRANTED** as follows:

A review of the above-captioned national stage application reveals that a declaration executed by both inventors was filed in the international application (PCT/US2004/009828) pursuant to PCT Rule 4.17(iv) on 31 March 2004. This declaration should have been forwarded to the above-captioned national stage application with the international papers on 07 April 2006.

The date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements on the corrected Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and the "Filing or 371(c) Date" on the corrected filing receipt mailed 01 September 2009 should be recorded as 07 April 2006.

The Form PCT/DO/EO/903 and filing receipt mailed 01 September 2009 contain erroneous information, and are both **VACATED**.

This application is being forwarded to the DO/EO/US for mailing a corrected Form PCT/DO/EO/903 and filing receipt indicating a 371 date of 07 April 2006.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

26 MAR 2008

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of:
BARROW, Colin, James
U.S. Application No.: 10/575,204
PCT Application No.: PCT/IB2006/001526
International Filing Date: 26 January 2006
Priority Date: 27 January 2005
Attorney's Docket No.: 15113.0007U2
For: CHROMIUM-FATTY ACID COMPOUNDS AND METHODS OF MAKING AND USING THEREOF

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182 To Change International Application Number" filed 07 March 2008. The petition seeks to correct the international application number so as to allow the national stage materials filed herein to be treated as the U.S national stage of PCT/IB2006/001526. Deposit Account No. 14-0629 will be charged the required $400 petition fee.

BACKGROUND

On 26 January 2006, applicants filed international application PCT/IB2006/001526. The international application claimed a priority date of 27 January 2005, and it designated the United States. On 19 October 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 July 2007.

On 10 April 2006, applicants filed papers to initiate a U.S. national stage application. This submission included a Transmittal Letter (Form PTO-1390), a preliminary amendment, and payment of fees (including the basic national fee).

The Transmittal Letter and preliminary amendment filed 10 April 2006 both identified the international application umber as PCT/US06/02784. Accordingly, the present application file was established as the U.S. national stage of PCT/US06/02784.

On 16 January 2007, applicants filed an Information Disclosure Sheet (IDS), with accompanying references. The IDS filed 16 January 2007 identified the international application number as PCT/IB06/001526.

On 22 January 2007, applicants filed a supplemental IDS that also identified the international application number as PCT/IB06/001526.

On 16 July 2007, applicants filed a status request.

On 15 October 2007, applicants filed a second supplemental IDS that identified the international application number as PCT/IB06/001526.

On 07 March 2008, applicants filed the petition under 37 CFR 1.182 considered herein. The petition seeks to correct the erroneous listing of the international application number in the original national stage papers so that the present application can be treated the U.S. national stage of PCT/IB2006/001526.

DISCUSSION

As noted above, the Transmittal Letter and preliminary amendment filed 10 April 2006 incorrectly identified the international application to which the submission was directed as PCT/US06/02784. Based on this error, the present application was treated as the U.S. national stage of the listed application, that is, PCT/US06/02784. Correction of this error is required before the materials filed herein can be treated as having been directed to international application PCT/IB2006/001526, as necessary to avoid abandonment of such international application with respect to the United States.

A grantable petition to correct the international application number so as to avoid abandonment requires the following: payment of the petition fee; a statement confirming the correct international application number; and the inclusion of the correct international application somewhere in the filed application papers prior to the date of abandonment (that is, prior to the expiration of thirty months from the priority date). Here, applicants have provided the required petition fee, and the petition includes the required confirmation that the correct international application is PCT/IB2006/001526. In addition, the correct international application number was set forth on the IDS filed 16 January 2007 and the supplemental IDS filed 22 January 2007, both of which were filed before the expiration of thirty months from the priority date. Accordingly, the requirement that the applicants provide the correct international application number prior to abandonment is satisfied here.

Based on the above, the present submission satisfies the requirements for a grantable petition to correct the errors in the national stage materials filed herein so as to permit the present application to be treated as the U.S. national stage of international application PCT/IB2006/001526. The materials filed herein, including the basic national fee, are treated as having been directed to PCT/IB2006/001526 as of 16 January 2007, the first date on which a document identifying the correct international application number was filed herein. It is noted that this date is prior the expiration of thirty months from the application's priority date.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

Deposit Account No. 14-0629 will be charged the required $400 petition fee.

The present application is treated as the U.S. national stage of international application PCT/IB2006/001526.

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 to indicate that the present application is the U.S. national stage of PCT/IB2006/001526, and for the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905). It is noted that a declaration in compliance with 37 CFR 1.497 has not been filed herein.

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

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21 SEP 2007

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON TX 76028

In re Application of
BUILTA et al.
Serial No.: 10/575,223
PCT No.: PCT/US04/09080
Int. Filing Date: 25 March 2004
Priority Date: None
Attorney's Docket No.: 0837RF-H476-US
For: CONTROL SYSTEM FOR VEHICLES

DECISION ON

SUBMISSION

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 30 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 April 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 23 April 2007, a Notification of Missing Requirements was mailed to applicant, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 30 April 2007, in response to the Notification, applicant submitted a copy of the declaration, executed by the inventors.

DISCUSSION

The declaration submitted on 23 April 2007 is a two page declaration, which was submitted with the PCT Request on 25 March 2006. The declaration is comprised of three pages: one page marked "Sheet No. 4" and two pages marked "Sheet No. 5", which are executed by different inventors. The declaration appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." *See* MPEP 201.03. The declaration is unacceptable as filed and thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met.

CONCLUSION

For the reasons set forth above, the declaration submitted on 30 April 2007 is unacceptable as filed. What is required is one declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b) . The $130 surcharge for filing the declaration after the thirty month period is also required.

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within TWO (2) MONTHS from the mail date of this Decision. Extensions of this time limit may be granted under 37 CFR 1.136(a).

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

27 FEB 2009

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON TX 76028

In re Application of BUILTA et al. Serial No.: 10/575,223 PCT No.: PCT/US04/09080 Int. Filing Date: 25 March 2004 Priority Date: None Attorney's Docket No.: 0837RF-H476-US For: CONTROL SYSTEM FOR VEHICLES	DECISION ON DECLARATION UNDER 37 CFR 1.497(a) and (b)

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 21 November 2007 in the United States Patent and Trademark Office (USPTO). Applicant also paid the $130 surcharge for filing the declaration after the thirty month period.

BACKGROUND

On 10 April 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 23 April 2007, a Notification of Missing Requirements was mailed to applicant, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 30 April 2007, in response to the Notification, applicant submitted a copy of the declaration, executed by the inventors.

On 21 September 2007, a decision was mailed to applicant indicating that the declaration was unacceptable because it did not meet the requirements of 37 CFR 1.497 (a) and (b).

On 21 November 2007, applicant submitted three separate declarations.

DISCUSSION

Applicant submitted 2 identical three page declarations, each included a supplemental sheet. Each declaration identified the application to which it was directed and identified all five inventors as listed on the published international application. One declaration was executed by inventor Byron P. Honza. The second three page declaration was executed by two inventors Jeffrey W. Epp and Kynn J. Schulte.

The third declaration identified and was executed by joint inventors Kenneth E. Builta and James E. Harris. This declaration is unacceptable because it does not identify the application to

which it is directed and it does not identify all of the five joint inventors as listed on the published international application. A declaration executed by inventors Kenneth E. Builta and James E. Harris is required. This declaration must identify the application to which it is directed and identify all five inventors, including the citizenship, residency and mailing address of all inventors to meet the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons set forth above, the declaration executed by inventors Builta and Harris and submitted on 21 November 2007 is unacceptable as filed as it is not in accord with 37 CFR 1.497(a) and (b).

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this Decision. **Extensions of this time limit are not 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.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

18 MAR 2009

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

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON TX 76028

In re Application of BUILTA et al. Serial No.: 10/575,223 PCT No.: PCT/US04/09080 Int. Filing Date: 25 March 2004 Priority Date: None Attorney's Docket No.: 0837RF-H476-US For: CONTROL SYSTEM FOR VEHICLES	DECISION ON DECLARATION UNDER 37 CFR 1.497(a) and (b)

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 10 March 2009 in the United States Patent and Trademark Office (USPTO).

The procedural history of this application was outlined in the decision mailed on 27 February 2007. In that decision, applicant was advised that one of the declarations submitted only identified and was executed by joint inventors Kenneth E. Builta and James E. Harris. Applicant was advised that this declaration was unacceptable because it did not identify the application to which it is directed and it did not identify all of the five joint inventors as listed on the published international application.

On 10 March 2009, applicant filed the instant communication advising that a declaration under PCT Rule 4.17 was filed with the original PCT Request on 24 March 2004. The declaration was executed by joint inventors Kenneth E. Builta, James E. Harris and Bryan P. Honza and also identified the remaining inventors Jeffrey W. Epp and Kynn J. Schulte. The declaration is in compliance with 37 CFR 1.497(a) and (b). Declarations executed by Bryan P. Honza, Jeffrey W. Epp and Kynn J. Schulte were submitted on 21 November 2007. The surcharge for filing the declaration after the thirty month period has been paid.

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 21 November 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 07/28/2010

Applicant	: Alain Gougeon	: DECISION ON REQUEST FOR
Patent Number	: 7648961	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/575,236	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **446** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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29 JAN 2008

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32nd FLOOR
CHICAGO, IL 60606

In re Application of:
BROPHY, Colleen, et al.
U.S. Application No.: 10/575,294
PCT No.: PCT/US2004/034989
International Filing Date: 15 October 2004
Priority Date: 17 October 2003
Attorney's Docket No.: 03-956-US
For: NOVEL HEAT SHOCK PROTEIN 20-RELATED PEPTIDES AND USES THEREFOR

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Request For Correction Of Inventorship Under 37 CFR 1.48(f)(1) and 1.497(d) and (f)" filed 05 October 2007. Applicant has submitted the required $130 processing fee.

BACKGROUND

On 15 October 2004, applicants filed international application PCT/US2004/034989. The application claimed a priority date of 17 October 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., 17 April 2006. The published international application identified six applicant/inventors for the United States.

On 12 April 2006, applicant filed a Transmittal Letter for entry into the national stage in the U.S. accompanied by, among other materials, payment of the basic national fee.

On 08 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and sequence listing materials were required.

On 01 May 2007, applicants filed a response to the Notification Of Missing Requirements. The response included sequence listing materials and a declaration.

On 12 July 2007, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the declaration filed 01 May 2007 was defective. Specifically, the declaration was not executed by one of the inventors of record (Lokesh JOSHI), it did not

include the citizenship of inventor Alyssa PANITCH, and it appeared to be an impermissible compilation of multiple documents.

On 05 October 2007, applicants filed revised declaration materials and the request to correct inventorship considered herein. The request seeks to remove Lokesh JOSHI as an inventor of record. The submission was accompanied by the required extension fee.

DISCUSSION

Where the applicants in a U.S. national stage application filed under 35 U.S.C. 371 seek to delete an inventor who was incorrectly listed as an inventor on the international application, 37 CFR 1.497(d) requires the applicants to submit: (1) a statement from each person being removed as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (in the form required by 37 CFR 3.73(b)), and (4) any new oath or declaration required by paragraph (f) of 37 CFR 1.497(d) (it is noted that item (4) does not apply to the present application).

Applicant here has submitted the required statement of non-deceptive intent from the inventor to be removed, Lokesh JOSHI. Item (1) is therefore satisfied.

Applicant has also submitted the required $130 processing fee. Item (2) is therefore satisfied.

Regarding item (3) above, applicant has submitted the written consent of the assignee to the correction in inventorship, and such statement of consent complies with the requirements of 37 CFR 3.73(b). Item (3) is therefore satisfied.

Based on the above, applicant has satisfied the requirements of 37 CFR 1.497(d). The inventorship of record herein is therefore appropriately corrected to delete Lokesh JOSHI as an inventor of record.

The present submission includes copies of the complete three-page declarations executed by each of the remaining inventors of record. These declaration documents are acceptable under 37 CFR 1.497.

CONCLUSION

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

The inventorship of record herein is corrected to delete Lokesh JOSHI as an inventor of record.

In view of the above correction of inventorship, the revised declaration materials filed 05 October 2007 are now acceptable in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 October 2007.

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

06 FEB 2007

Thomas D. Foster
12760 High Bluff Drive, Suite 300
San Diego, CA 92130

In re Application of :
LARK et al. :
Application No.: 10/575,320 : DECISION ON PETITION
PCT No.: PCT/AU04/01389 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 October 2004 :
Priority Date: 13 October 2003 :
Attorney Docket No.: 6111.001-01 :
For: PROCESS FOR RECYCLING WASTE PLASTICS

The petition to revive under 37 CFR 1.137(b) filed 24 January 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted 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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www.uspto.gov

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine CA 92614-6232

0 8 JUN 2007

In re Application of	:	
MESSER, Barry et al.	:	
Application No.: 10/575,330	:	DECISION
PCT No.: PCT/US2004/021468	:	
Int. Filing Date: 01 July 2004	:	ON PETITION UNDER
Priority Date: 17 October 2003	:	
Docket No.: 100325.0233US	:	37 CFR 1.137(b)
For: COMPOSTITIONS, CONFIGURATIONS, METHODS OF REDUCING NAPHTHENIC ACID AND CORROSIVITY	:	

Applicants' Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 10 January 2007 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 is required. However, the authorization to charge the deposit account was not signed by someone authorized to function on the deposit account.

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) and the fee for late filing of the search fee, examination fee or oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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www.uspto.gov

11 JUN 2007

Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of
SMALLEY et al.
Application No.: 10/575,352
PCT No.: PCT/US04/34002
Int. Filing Date: 14 October 2004
Priority Date: 14 October 2003
Attorney Docket No.: 11321P077WOUS
For: AMPLIFICATION OF CARBON NANOTUBES VIA SEEDED-GROWTH METHODS

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is issued in response to the declaration filed 19 April 2007 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 October 2004, applicants filed the above-identified international application which claimed a priority date of 14 October 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, 14 April 2006.

On 11 April 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 19 April 2007, applicants filed a declaration executed by twelve of the thirteen inventors and Irene M. Marek, on behalf of deceased inventor, Richard E. Smalley.

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 19 April 2007 is executed by twelve of the thirteen inventors and Irene M. Marek as the "legal representative" of the deceased inventor, Richard E. Smalley. 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 19 April 2007 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).

Additionally, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it gives the impression that Irene M. Marek is the first or sole inventor for the present application. A compliant declaration under 37 CFR 1.497(a)-(b) would identify the inventors as they appear in the published International Application. In order to proceed under 37 CFR 1.42, applicant must provide a declaration that: (1) properly identifies the inventors; (2) sets forth the residence, post office address and country of citizenship for both the deceased co-inventor, Richard E. Smalley and the legal representative, Irene M. Marek; and (3) states the relationship (i.e. legal representative or sole heirs) of Irene M. Marek to the deceased inventor.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

07 SEP 2007

Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of
SMALLEY et al.
Application No.: 10/575,352
PCT No.: PCT/US04/34002
Int. Filing Date: 14 October 2004
Priority Date: 14 October 2003
Attorney Docket No.: 11321P077WOUS
For: AMPLIFICATION OF CARBON NANOTUBES VIA SEEDED-GROWTH METHODS

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is issued in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 13 August 2007. No petition fee is required.

BACKGROUND

On 14 October 2004, applicants filed the above-identified international application which claimed a priority date of 14 October 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, 14 April 2006.

On 11 April 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 19 April 2007, applicants filed a declaration executed by twelve of the thirteen inventors and Irene M. Marek, on behalf of deceased inventor, Richard E. Smalley. In a decision dated 11 June 2007, applicants' request under 37 CFR 1.42 was refused.

On 13 August 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.

The declaration filed 13 August 2007 is executed by twelve of the thirteen inventors and Irene M. Marek as the "legal representative" of the deceased inventor, Richard E. Smalley. The declaration submitted on 13 August 2007 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes duplicate sheets of pages four (4), five (5), and six (6). It is unclear if the inventors were presented with only pages four (4), five (5), and six (6), in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

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
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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0 4 FEB 2008

Winstead P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of :
SMALLEY et al. :
Application No.: 10/575,352 : DECISION ON
PCT No.: PCT/US04/34002 : PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 14 October 2004 :
Priority Date: 14 October 2003 :
Attorney Docket No.: 11321P077WOUS :
For: AMPLIFICATION OF CARBON NANOTUBES VIA SEEDED-GROWTH METHODS :

This decision is issued in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 26 October 2007. Additionally, this decision is issued in response to applicants' facsimile submission dated 31 January 2008. No petition fee is required.

BACKGROUND

On 14 October 2004, applicants filed the above-identified international application which claimed a priority date of 14 October 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, 14 April 2006.

On 11 April 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 19 April 2007, applicants filed a declaration executed by twelve of the thirteen inventors and Irene M. Marek, on behalf of deceased inventor, Richard E. Smalley. In a decision dated 11 June 2007, applicants' request under 37 CFR 1.42 was refused.

On 13 August 2007, applicants filed a "Renewed Submission under 37 CFR 1.42." In a decision dated 07 September 2007, applicants' request under 37 CFR 1.42 was refused.

On 26 October 2007, applicants filed a (second) "Renewed Submission under 37 CFR 1.42."

On 31 January 2008, applicants filed a supplemental "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.

A. Declaration filed 26 October 2007

The declaration filed 26 October 2007 is executed by twelve of the thirteen inventors and Irene M. Marek as the "legal representative" of the deceased inventor, Richard E. Smalley. The declaration submitted on 26 October 2007 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration is not in an acceptable form. Specifically, the declaration is defective, in that, it fails to include page one of six; it fails to include the residence, citizenship, and post office address for the legal representative; and it gives the impression that Irene M. Marek is the first inventor for the present application.

B. Declaration filed 31 January 2008

The declaration filed 31 January 2008 is executed by twelve of the thirteen inventors and Irene M. Marek as the "legal representative" of the deceased inventor, Richard E. Smalley and provides their residence, post office address and country of citizenship. In addition, the declaration provides the country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

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Legal Staff
International Division

From the desk of: Cherita Grimstead

Date: January 31, 2008
Time: 4:30PM
Total pages (+ cover): 13

Emp #: 1692	Billing #: 11321-P077WOUS

	Recipient	Company	Phone #	Fax #
1.	Examiner A. Smith	USPTO	571/272-3298	571/273-0459
2.				
3.				
4.				
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Message

Supplemental Declaration filing per our conversation on January 30, 2008 for Application No. 10/575,352.

If any transmission problems, please call: 713.650.2402

Information contained in this transmission is intended for the use of the individual or entity named above and may contain legally privileged and/or confidential information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please permanently delete this message and immediately notify us by telephone.

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ATTORNEY DOCKET NO.
11321-P077WOUS

PATENT
Serial No. 10/575,352

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Richard E. Smalley, Deceased, et al.
Serial No:	10/575,352
International App'l No:	PCT/US2004/34002
Int'l Filing Date:	October 14, 2005
Group Art Unit:	Unknown
Confirmation No:	9439
Title:	Amplification of Carbon Nanotubes Via Seeded-Growth Methods

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RENEWED SUBMISSION UNDER 37 CFR 1.42

In response to the Decision on Papers Under 37 CFR 1.42 with the mail date of June 11, 2007, with two-months to provide a response ending on August 11, 2007, Applicant encloses the following documents:

1. Declaration in compliance under 37 CFR 1.497(a)-(b) executed by Irene M. Marek, legal representative of deceased inventor Richard B. Smalley;
2. Supplemental Declaration Under 37 CFR 1.42 executed by Irene M. Marek; and
3. A copy of the Decision on Papers Under 37 CFR 1.42;

ATTORNEY DOCKET NO.
11321-P077WOUS

PATENT
Serial No. 10/575,352

Applicant does not believe there are any fees due at this time; however, if there any fees required, Commissioner is hereby authorized to charge any fees relating to this filing to the Winstead Sechrest & Minick P.C. Deposit Account No. 23-2426. Any questions regarding this filing should be directed to the attorney below.

Dated:

8/13/7

Respectfully submitted,

Robert C. Shaddox
Reg. No. 34,011
WINSTEAD PC
P.O. Box 50784
Dallas, TX 75201
Tel (713) 650-2764
Fax (214) 745-5390

ATTORNEY FOR APPLICANTS

CERTIFICATE OF TRANSMISSION OR MAILING UNDER 37 C.F.R. § 1.10

I hereby certify that the attached *Response to Notice Notification of Missing Requirements* is being filed electronically with the United States Patent and Trademark Office via EFS-Web on the date below:

August 13, 2007
Date

Signature

928121v.1 11321/P077WOUS

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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11 JUN 2007

RECEIVED ON

JUN 15 2007

BY WINSTEAD

MAILED ON

JUN 18 2007

By

Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of :
SMALLEY et al. :
Application No.: 10/575,352 :
PCT No.: PCT/US04/34002 :
Int. Filing Date: 14 October 2004 :
Priority Date: 14 October 2003 :
Attorney Docket No.: 11321P077WOUS :
For: AMPLIFICATION OF CARBON NANOTUBES VIA SEEDED-GROWTH METHODS :

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is issued in response to the declaration filed 19 April 2007 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 October 2004, applicants filed the above-identified international application which claimed a priority date of 14 October 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, 14 April 2006.

On 11 April 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 19 April 2007, applicants filed a declaration executed by twelve of the thirteen inventors and Irene M. Marek, on behalf of deceased inventor, Richard E. Smalley.

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 19 April 2007 is executed by twelve of the thirteen inventors and Irene M. Marek as the "legal representative" of the deceased inventor, Richard E. Smalley. 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 19 April 2007 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).

Additionally, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it gives the impression that Irene M. Marek is the first or sole inventor for the present application. A compliant declaration under 37 CFR 1.497(a)-(b) would identify the inventors as they appear in the published International Application. In order to proceed under 37 CFR 1.42, applicant must provide a declaration that: (1) properly identifies the inventors; (2) sets forth the residence, post office address and country of citizenship for both the deceased co-inventor, Richard E. Smalley and the legal representative, Irene M. Marek; and (3) states the relationship (i.e. legal representative or sole heirs) of Irene M. Marek to the deceased inventor.

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

SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. § 1.42 FOR SIGNING BY LEGAL REPRESENTATIVE ON BEHALF OF DECEASED INVENTOR

I, Irene M. Marek, hereby declare that I am a citizen of the United States, residing at 3 Stagestop Circle, Houston, Texas 77024. I further declare that I have been appointed as a legal representative of Richard E. Smalley, who passed away on October 28, 2005, as I am named as executrix in his will. Upon information and belief, I aver those facts that he is required to state in order to apply for a patent or allowance of any patent application in which he is listed as an inventor. Further, it is my understanding that this patent application in which Richard E. Smalley is listed as an inventor is to be assigned to Rice University, his employer since 1976, pursuant to the Rice University Policy.

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 §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8/10/07

Irene M. Marek
Legal Representative of Richard E. Smalley

Houston_1\924196\1
11321-P077WOUS 7/24/2007

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DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☐ Declaration Submitted With Initial Filing OR ☑ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	11321-P077WOUS
First Named Inventor	RICHARD E. SMALLEY ET AL.
COMPLETE IF KNOWN	
Application Number	10/575,352
Filing Date	OCTOBER 14, 2004
Art Unit	UNKNOWN
Examiner Name	UNKNOWN

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

AMPLIFICATION OF CARBON NANOTUBES VIA SEEDED-GROWTH METHODS

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☑ was filed on (MM/DD/YYYY) October 14, 2004 as United States Application Number or PCT International Application Number PCT/US2004/34002 and was amended on (MM/DD/YYYY) _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	NO
N/A			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02 attached hereto.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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DECLARATION — Utility or Design Patent Application

Direct all correspondence to:	☑ The address associated with Customer Number	61060	OR ☐	Correspondence address below

Name		
Address		
City	State	ZIP
Country	Telephone	Email

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.

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

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
Richard E.	Smalley, Deceased

Inventor's Signature: Richard E. Smalley, Deceased, by Anne M. Marek, Executrix of the Estate of Smalley — Date: 8/10/07

Residence: City	State	Country	Citizenship
Houston	TX	US	US

Mailing Address: 1816 Bolsover Street

City	State	Zip	Country
Houston	TX	77005	US

☑ Additional inventors or a legal representative are being named on the 4 supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet

Name of Additional Joint Inventor, if any:	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle (if any))	Family Name or Surname		
Robert H.	Hauge		
Inventor's Signature R H Hauge			Date 3/12/2007
Residence: City Houston	State TX	Country US	Citizenship US
Mailing Address 4031 Turnberry Circle			
City Houston	State TX	Zip 77025	Country US

Name of Additional Joint Inventor, if any:	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle (if any))	Family Name or Surname		
Andrew R.	Barron		
Inventor's Signature			Date 2/15/07
Residence: City Houston	State TX	Country US	Citizenship GB
Mailing Address 241 Asbury			
City Houston	State TX	Zip 77007	Country US

Name of Additional Joint Inventor, if any:	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle (if any))	Family Name or Surname		
James M.	Tour		
Inventor's Signature			Date 2/15/07
Residence: City Bellaire	State TX	Country US	Citizenship US
Mailing Address 4625 Spruce Street			
City Bellaire	State TX	Zip 77401	Country US

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Howard K.	Schmidt

Inventor's Signature: Howard K Schmidt Date: 2/7/07

Residence: City	State	Country	Citizenship
Cypress	TX	US	US

20702 Bradford Creek Court
Mailing Address

City	State	Zip	Country
Cypress	TX	77433	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
W. Edward	Billups

Inventor's Signature: W. Edward Billups Date: 12/20/06

Residence: City	State	Country	Citizenship
Houston	TX	US	US

6416 Rutgers
Mailing Address

City	State	Zip	Country
Houston	TX	77005	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Christopher A.	Dyke

Inventor's Signature: C A Dyke Date: 2-15-2007

Residence: City	State	Country	Citizenship
Humble	TX	US	US

19811 Spoonwood Drive
Mailing Address

City	State	Zip	Country
Humble	TX	77346	US

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Valerie C.	Moore

Inventor's Signature: Valerie C. Moore Date: 03-19-2007

Residence: City	State	Country	Citizenship
Houston	TX	US	US

Mailing Address: 2255 Braeswood Park Dr., No. 139

City	State	Zip	Country
Houston	TX	77030	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Elizabeth	Whitsitt

Inventor's Signature: Elizabeth Whitsitt Date: 04/07

Residence: City	State	Country	Citizenship
Houston	TX	US	US

Mailing Address: 806 LaMonte Lane

City	State	Zip	Country
Houston	TX	77018	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Robin E.	Anderson

Inventor's Signature: Robin Anderson Date: 13Apr07

Residence: City	State	Country	Citizenship
Toronto	Ontario	CA	US

Mailing Address: 100 Gloucester St., Apt. 803

City	State	Zip	Country
Toronto	ON	M4Y1M1	CA

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Ramon	Colorado, Jr.

Inventor's Signature: Ramon L. Colorado, Jr. Date: 4/15/07

Residence: City	State	Country	Citizenship
Houston	TX	US	US

Mailing Address: 5104 Irving Way

City	State	Zip	Country
Houston	TX	77087-3629	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Michael P.	Stewart

Inventor's Signature: Michael P. Stewart Date: 31-Jan-07

Residence: City	State	Country	Citizenship
Mountain View	CA	US	US

Mailing Address: 392 N. Rengstorff Ave., Apt. 2

City	State	Zip	Country
Mountain View	CA	94043	US

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))	Family Name or Surname
Douglas C.	Ogrin

Inventor's Signature: Douglas C. Ogrin Date: 3-14-07

Residence: City	State	Country	Citizenship
Houston	TX	US	US

Mailing Address: 2825 Bellefontaine, No. 240A

City	State	Zip	Country
Houston	TX	77025	US

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,369	04/11/2006	Marco Alexander Van Den Berg	GRT/4662-168	9073

23117 7590 11/23/2009

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

EXAMINER	
ROBINSON, HOPE A	

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
11/23/2009	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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 2 3 2009

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

In re Application of	:
Van Der Berg et al	:Decision on Petition
Serial No.:10/575,369	:
Filed : 11 April 2006	:
Attorney Docket No.: GRT/4662-168	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on 9 November 2009 to request withdrawal of the restriction requirement mailed 4 June 2008 in view of the claims as currently pending.

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 4 June 2008, the examiner divided the claims into 5 Groups as follows

Group I, claims 1-9;
Group II, claims, 10-14;
Group III, Claims 15-20;
Group IV, Claims 21-25;
Group V, Claim 26

Groups I-IV were all drawn to drawn to methods for preparing a host cell while Group V was drawn to a polynucleotide. As evidence of lack of special technical feature which makes a contribution over the prior art, the examiner referred to US Patent 6,608,213.

On 8 August 2008, applicants elected, Group I, Claims 1-9 with traverse.

On 26 November 2008, the examiner mailed to applicants a non-final Office action. The examiner addressed the traversal and made the restriction requirement FINAL.

Claims 10-26 were withdrawn as being directed to non-elected invention.

Claims 1-9 were examined on the merits.

Claims 1-4 and 6-9 were rejected under 35 USC 102 as being anticipated by Wolff.

Claims 1-9 were rejected under 35 USC 102 as being anticipated by Johnson.

On 26 March 2009, applicants filed a response to the Office action, with an amendment that added new claims 27 and 28.

On 8 June 2009, the examiner mailed to applicants a second non- final Office action. The examiner indicated that claims 10-21, 23-25, and new claims 27-28 were withdrawn as being directed to non-elected invention, there being no allowable generic or linking claim.

Claims 1-9 were rejected under 35 USC 112, first paragraph for written description and for lack of enablement.

Claims 1-4 and 6-9 remained rejected under 35 USC 102 as being anticipated by Wolff.

Claims 1-9 remained rejected under 35 USC 102 as being anticipated by Johnson.

On 9 November 2009, applicant submitted the petition currently under review along with a response to the Office action and new claims 29-38.

DISCUSSION

The petition and file history have been carefully considered, with regard to the claims as currently pending in the amendment filed 9 November 2009.

Paragraph 10.01 of the ISPE Guidelines state that

> With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

Paragraph 10.06 of the ISPE Guidelines state that

> Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims.

In order to show unity of invention lacking between independent claims, one would need to identify technical features which are required by a first claim and not required by the second claim and then, identify technical features which are required by the second claim and not required by the first claim. An analysis for method claims would involve consideration of the method steps. The chart on the next page aligns the various limitations of the independent method claims 1, 15, 29 and 35. As shown in the chart, all four independent method claims require the same active steps of transfecting host cells with labeled polynucleotide and isolating the resulting transfected or modified host cell.

Claim 1 (examined)	Claim 15 (withdrawn Group III)	Claim 29 (new)	Claim 35 (new)
A method for preparation of a modified host cell comprising: a) transfecting host cells with at least one			
polynucleotide to which a label is covalently coupled; and	DNA which is covalently coupled to a fluorescent label that provides to the host cell a non-inheritable trait,	DNA to which a fluorescent label is covalently coupled;	
b) isolating the transfected host cell,			
	by detecting the fluorescent label and then separating fluorescent host cells which were transfected from non-fluorescent host cells which were not transfected,	b) separating transfected host cells, which contain the fluorescent label, from non-transfected host cells, which do not contain the fluorescent label, by detection of the fluorescent label;	
		and c) isolating a modified host cell from the separated and transfected host cells,	
	c) culturing the transfected host cell such that fluorescently-labeled polynucleotide integrates into the host cell's genome,		c) culturing the fluorescent label-containing host cells under proliferating conditions,
	d) multiplying the transfected host cell which has polynucleotide integrated in its genome	wherein the at least one DNA integrates into the modified host cell's genome	
	such that the fluorescent label is diluted and lost in progeny of the transfected host cell, and		Whereby the fluorescent label is diluted and lost in progeny of the fluorescent label-containing host cells; and
	e) isolating from non-labeled progeny of the transfected host cell		d) isolating a modified host cell from the cultured host cells,
Wherein said at least one polynucleotide permanently changes metabolic property of the transfected host cell	a modified host cell having a changed metabolic property.	thereby permanently changing a metabolic property of transfected host cells	Wherein a metabolic property of the modified host cell is permanently changed
as compared to the non-transfected host cell;	as compared to the host cell prior to transfection	as compared to non-transfected host cells.	
Wherein the label provides to the host cell a non-inheritable trait.	See Claim 15 step (a), "non-inheritiable trait" and step (d) "lost in progeny"		See Claim 35 step (c) "lost in progeny"

Similarly all four independent method claims recite the same outcome- wherein the transfected or modified host cell has a changed metabolic property.

While there are some differences in the scope of the limitations, these differences appear to be varying breadth or definition. For example, in place of the last clause of Claim 1 "wherein the label provides to the host cell a non-inheritable trait", Claim 15, step (d) and Claim 35, step (c) recite comparable limitations that "the fluorescent label is diluted and lost in the progeny."

With respect to the limitation of "polynucleotide," Claim 1 and Claims (15, 29 and 35) are related as genus and species. Claim 1 is generic to any polynucleotide while Claims 15, 19 and 32 require the species of DNA. It is inappropriate to require a restriction between a genus and a species. Moreover, the prior art (Wolff and Johnson) which was applied under 35 USC 102(b) teaches DNA.

With respect to the limitation of "label," Claim 1 and Claims (15, 29 and 35) are related as genus and species. Claim 1 is generic to any label while Claims 15, 19 and 32 require the species of a fluorescent label. Dependent Claim 5, which had already been examined on the merits, is limited to the same species of "fluorescent label". Moreover, the prior art (Wolff and Johnson) which was applied on Claim 4 under 35 USC 102(b) teaches fluorescent labels.

> 5. (original) A method according to claim 3, wherein the label is a fluorescent label and the means for detection is a Fluorescent Activated Cell Sorter (FACS).

The limitation of Claim 32, step (c), "culturing the fluorescent label-containing host cells under proliferating conditions," is comparable to twice-previously examined Claim 6:

> 6. (currently amended) A method according to claim 1, wherein the transfected host cell of [[step]] b) is subsequently cultured under proliferating conditions.

The limitation of Claim 32, step (b), "separating transfected host cells, which contain the fluorescent label, from non-transected host cells, which do not contain the fluorescent label is comparable to twice-previously examined Claim 2:

> 2. (original) A method according to claim 1, wherein isolation of the transfected host cell is established by direct separation of the host cells containing said label from host cells not containing said label.

For these reasons, Claims 1, 15, 29 and 35 encompass the same embodiments, and vary only in breadth or scope. Claims 1, 15, 29 and 35 share same or corresponding technical features such that unity of invention is present.

DECISION

Accordingly, the petition is **GRANTED.**

The restriction required between elected Group I, claims 1-9 and Group III, claims 15-20 and 27-28 is withdrawn.

Claims 29-38, which were newly added on 9 November 2009, will be examined with the elected invention.

The non-final Office action mailed 8 June 2009 is withdrawn as incomplete.

The application will forwarded to the examiner to consider the papers filed 9 November 2009 and to prepare an Office action on the merits on Claims 1-9, 15-20 and 27-38.

There is no fee for this petition.

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

Remy Yucel
Director, Technology Center 1600

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Jixian Li :
Application No. 10/575,399 : DECISION ON PETITION
Filed: January 9, 2007 : TO WITHDRAW
Attorney Docket No. 601/6 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed for items 1-3 listed above.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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FEB 16 2010

In re Application of :
Jixian Li :
Application No. 10/575,399 : DECISION ON PETITION
Filed: January 9, 2007 : TO WITHDRAW
Attorney Docket No. 601/6 : 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 21, 2010.

The request is **APPROVED**.

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

The request was signed by Matthew B. Dernier on behalf of attorney/agents associated with customer number 27538. All attorneys/agents associated with customer number 27538 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jixian Li
4-1-1 Guoshuijujiashu Building
Zinmaio Street
Qiaoxi District, Xingtai City
Hebei Province, China 054000

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/575,399	01/09/2007	Jixian Li	601/ 6

CONFIRMATION NO. 8993

POWER OF ATTORNEY NOTICE

27538
GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

Date Mailed: 02/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/21/2010.

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

/kainabinet/

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

07 JAN 2008

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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:	
STEIFEL	:	
Application No.: 10/575,419	:	DECISION ON
PCT No.: PCT/EP2004/011978	:	
Int. Filing Date: 22 October 2004	:	PETITION
Priority Date: 22 October 2003	:	
Attorney Docket No.: 251507	:	
For: COMBINED PREPARATION FOR TREATING SEPSIS	:	

This decision is in response to the "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed 12 December 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 October 2004, applicant filed international application PCT/EP2004/011978, which designated the U.S. and claimed a priority date of 22 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 April 2006 (22 April 2006 being a Saturday).

On 10 April 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 29 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that 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 04 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 29 December 2006 within the time period set therein.

On 12 December 2007, applicant filed the instant "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)".

DISCUSSION

The petition filed 12 December 2007 requests that the copies of the declaration accompanying the petition be accepted as having been received on 10 January 2007 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

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

Items (1)-(3) have been satisfied. Therefore, the declaration received on 12 December 2007 may properly be accepted as originally received in the USPTO on 10 January 2007. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 04 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 04 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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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/26/2010

Applicant	: Sebastien Prouet	: DECISION ON REQUEST FOR
Patent Number	: 7652509	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/575,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GARDERE / JHTL
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

11/3/09

In re Application of:
GLEESON, JAMES et al
Serial No. 10/575,432
Filed: Apr. 10, 2006
Docket: 131279-1052
Title: FIBRE REINFORCED CEMENT COLUMN AND METHOD OF FORMING THE SAME

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed October 21, 2009 under 37 CFR 1.181 requesting withdrawal of the non-final Office action mailed August 27, 2009 and re-issue a complete Office action.

The petition is Granted.

In finding petitioner's points of argument persuasive, the requested relief is granted. The Non-final Office action mailed August 27, 2009 is hereby withdrawn. The applicant is not required to respond to this withdrawn Office action. The examiner has been instructed to issue a new Office action consistent with this decision in due course.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3724 for preparation of a new Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED.

Donald T. Hajec, Director
Technology Center 3700

04 MAY 2006

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Ernest F. Chapman
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	:	
ZHAO, et al.	:	
Application No.: 10/575,457	:	
PCT No.: PCT/US04/24571	:	DECISION ON PETITION
Int. Filing Date: 30 July 2004	:	
Priority Date: 01 August 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 08576.0004	:	
For: NEUROPROTECTIVE EFFECTS OF ATF6	:	

The petition to revive under 37 CFR 1.137(b) filed 12 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "This application became abandoned unintentionally, i.e. the entire delay in filing the required fees, transmittal papers and documents to enter the national phase, from the due date for entering the national phase until the filing of this petition, was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a payment of the full U.S. Basic National fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 30 July 2004 under 35 U.S.C. 363 and will be given a date of **12 April 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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OCT 12 2007

OFFICE OF PETITIONS

Applicant: Zhao et al.
Appl. No.: 10/575,457
International Filing Date: July 30, 2004
Title: NEUROPROTECTIVE EFFECTS OF ATF6
Attorney Docket No.: 085760004
Pub. No.: US 2006/0246037 A1
Pub. Date: November 2, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 3, 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 first inventor's name "Byron Zhao" is misprinted as "Bryon Zhao".

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]

On July 27, 2006, a Filing Receipt was mailed by the Office, which improperly listed the first inventor's name, as "Bryon Zhao" and stated that the projected publication date was November 2, 2006.

On October, 3, 2006, Applicant's representative made a request for a corrected filing receipt. The correction was made too late in the publication process to be entered into the publication.

[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 error on the front page of the publication may be an Office error, but it is a not material Office error under 37 CFR 1.221. The misspelling of an inventor's name does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant's argument that the error is material because the first inventor will be used to identify the application in databases including the Office and may lead to confusion during prosecution of any continuing applications is not persuasive. The Office records have been corrected and Examiner's examine the applications in the image file wrapper, not the pre-grant publications.

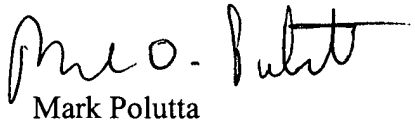
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

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22 JUN 2009

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Finnegan, Henderson, Farabow, Garrett &
Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	:	DECISION ON
Jansson et al	:	
Application No.: 10/575,461	:	
PCT No.: PCT/SE2004/001467	:	
Int. Filing Date: 13 October 2004	:	PAPERS FILED
Priority Date: 13 October 2003	:	
Attorney's Docket No.: 05049.0008	:	
For: A DEVICE FOR CARRYING OUT A PERITONEAL DIALYSIS TREATMENT	:	UNDER 37 CFR 1.42

This is a decision on the declaration filed 29 September 2008 and the communication filed on 11 March 2009, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 April 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). However, applicants did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 30 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 30 June 2008, applicants filed a declaration on 29 September 2008 signed by Helen Thell as heir of the inventor, Bengt-Olov Thell, now deceased.

On 17 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) because the oath submitted to the USPTO on September 29, 2008 is defective.

On 11 March 2009, applicants responded to the "Notification of Defective Response," indicating that Helen Thell is the heir because the inventor Bengt-Olov Thell has deceased.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Helen Thell is the sole heir for the deceased inventor, Bengt-Olov Thell. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that he is the sole heir for the deceased inventor in order for the Office to accept the application under 37 CFR 1.42.

In additions, applicants have provided a defective declaration because there are alterations on it - lines across the information on it, and then a different address for the Helen Thell. The declaration has been improperly altered without the proper initialization as required. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52.

Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

06 JAN 2010

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

Finnegan, Henderson, Farabow, Garrett &
Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	:	DECISION ON RENEWED
Jansson et al	:	
Application No.: 10/575,461	:	
PCT No.: PCT/SE2004/001467	:	
Int. Filing Date: 13 October 2004	:	PAPERS FILED
Priority Date: 13 October 2003	:	
Attorney's Docket No.: 05049.0008	:	
For: A DEVICE FOR CARRYING OUT A PERITONEAL DIALYSIS TREATMENT	:	UNDER 37 CFR 1.42

This is a decision on the "RENEWED REQUEST UNDER 37 CFR 1.42" filed 24 August 2009.

BACKGROUND

In a decision from this office dated 22 June 2009, the papers filed on 29 September 2008 were not accepted under 37 CFR 1.42. The reason was that it was not clear if Helen Thell was the sole heir of the deceased co-inventor, Bengt-Olov Thell.

On 24 August 2009, applicants submitted the renewed submission under 37 C.F.R. §1.42.

DISCUSSION

Applicant has provided a statement by the attorney, Mr. Chapman, which sets forth that Helen Thell is in fact the sole heir of the deceased co-inventor Bengt-Olov Thell.

Accordingly, the requirements under 37 CFR 1.42 are satisfied and the declaration is acceptable at this time as it now lists Helen's citizenship and residence.

It is noted that if she is executing the declaration as the sole heir of the deceased inventor then it is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative(s) of the deceased inventor in response to this decision.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **24 August 2009**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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DEC 14 2009

OFFICE OF PETITIONS

In re Application of :
Seungyoup LEE et al. :
Application No. 10/575,482 : DECISION ON PETITION
Filed: April 12, 2006 :
Attorney Docket No. **CU-4757 WWP** :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2009. Accordingly, the date of abandonment of this application is August 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) is accepted as being unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 OCT 2006

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK, NY 10036-2714

In re Application of OKANO et al	:	
U.S. Application No.: 10/575,498	:	
PCT Application No.: PCT/JP2004/015483	:	
Int. Filing Date: 20 October 2004	:	DECISION
Priority Date Claimed: 24 October 2003	:	
Attorney Docket No.: M1071.1971	:	
For: WAVEGUIDE CONVERSION DEVICE, WAVEGUIDE ROTARY JOINT, AND ANTENNA DEVICE	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 September 2006.

BACKGROUND

On 20 October 2004, applicant filed international application PCT/JP2004/015483, which claimed priority of an earlier Japan application filed 24 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 April 2006.

On 11 April 2006, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/JP2004/015483 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 September 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required 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 20 October 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 September 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6th STREET, NW
WASHINGTON DC 20001

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 10/575,528 : DECISION ON PETITION
Filed: April 2, 2007 :
Attorney Docket No. MONT-028/01US :
306509-2174

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 24, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on April 25, 2009. A Notice of Abandonment was mailed October 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $810.00 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, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175.00, five-month extension of

time fee submitted on October 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/10

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 10575531 Patent No.: 7615975

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: _____

/Patrick Assouad/ — **SPE**

2858 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

OPAP IAP17
MAR 29 2010
PATENT & TRADEMARK OFFICE

OK TO ENTER: /AW/

10575531

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,615,975

Issue Date: November 10, 2009

Inventors: Hiroyuki TSUKASHIMA; Takamasa TAKEUCHI; Kazumoto KONDA; Sho MIYAZAKI

Title: MOTOR MODULE

Docket No.: 127619

Certificate
APR 01 2010
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 322

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

Sir:

It is respectfully requested that a Certificate of Correction be issued in order to correct the error specified in the attached copy of Certificate of Correction Form PTO-1050.

It is believed that the errors are on the part of the Patent and Trademark Office, and therefore no fee is due in relation to this matter in accordance with the provisions of 37 C.F.R. §1.322. However, should any fee be due, please charge the same against Deposit Account No. 15-0461 in order to ensure prompt issuance of a Certificate of Correction.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Edward J. Wise
Registration No. 34,523

JAO:EXW/nlp

Date: March 29, 2010

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry of this filing; Charge any fee due to our Deposit Account No. 15-0461

PTO/SB/44 (02-01)
Approved for use through 1/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Action of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,615,975

APPLICATION NO.: 10/575,531

DATED : November 10, 2009

INVENTOR(S) : Hiroyuki TSUKASHIMA et al.

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

Please add the priority information as follows:

(30) **Foreign Application Priority Data**

Feb. 13, 2004 (JP) 2004-037103

MAILING ADDRESS OF SENDER: OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

PATENT NO. 7,615,975 B2

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Manfred BLUMBERG, et *al.* :
Application No. 10/575,532 : DECISION GRANTING PETITION
Filed: April 12, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **7701-0001WOUS** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2121 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

22 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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V. W. O'Brien
P. O. Box 848
Randwick Junction
N.S.W. 2031 AU AUSTRALIA

In re Application of O'BRIEN et al.	:	
Application No.: 10/575,553	:	
PCT No.: PCT/AU04/01090	:	DECISION ON
Int. Filing: 13 August 2003	:	
Priority Date: 15 August 2002	:	PETITION TO REVIVE
Attorney Docket No.: None	:	
For: DEEP VEIN PULSATOR LEGGINGS	:	UNDER 37 CFR 1.137(b)

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

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

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant filed a declaration with his request to enter the U.S. national stage. The declaration is executed by Vincent William O'Brien as the sole inventor of the international application. However, a review of the published international application PCT/AU04/01090 reveals that Vincent William O'Brien is not the sole inventor; the publication also identifies Shannon William O'Brien as a joint inventor. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau deleting Shannon William O'Brien as a co-inventor under PCT Rule 92*bis*.

The declaration submitted on 06 December 2006 erroneously identifies Vincent William O'Brien as the sole inventor and thus is not in compliance with 37 CFR 1.497(a) and (b). Since there is no indication that Shannon William O'Brien was deleted by the International Bureau under PCT Rule 92*bis* as a co-inventor, it is improper to accept the declaration which does not identify him as a co-inventor. A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by both inventors is required.

The application will be held in the PCT Legal Office to await applicant's further reply.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

22 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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VINCENT W. O'BRIEN
3/234 MAROUBRA ROAD
MAROUBRA JUNCTION
N.S.W.
2035 AU AUSTRALIA

In re Application of O'BRIEN et al.	:	
Application No.: 10/575,553	:	
PCT No.: PCT/AU04/01090	:	DECISION ON
Int. Filing: 13 August 2003	:	
Priority Date: 15 August 2002	:	DECLARATION
Attorney Docket No.: None	:	
For: DEEP VEIN PULSATOR LEGGINGS	:	UNDER 37 CFR 1.497(a)

This decision is on a newly executed declaration filed in the United States Patent and Trademark Office on 16 March 2007, which was filed in response to a decision mailed on 22 December 2006 in the above-captioned application.

The decision mailed on 22 December 2006 indicated that the declaration submitted on 06 December 2006 erroneously identified Vincent William O'Brien as the sole inventor and thus was not in compliance with 37 CFR 1.497(a) and (b) since there was no indication that Shannon William O'Brien was deleted by the International Bureau under PCT Rule 92*bis* as a co-inventor. Applicant was advised that a new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by both inventors was required.

The executed declaration filed on 16 March 2007 is in compliance with 37 CFR 1.497(a) and (b), as it is executed by both inventors and is acceptable.

The surcharge for filing the declaration after the thirty month period is $65 for a small entity. Applicant attempted to pay the surcharge for filing the declaration after the thirty month period with a credit card form PTO-2038. However, the attempt to charge the credit card was unsuccessful The credit card form was signed by applicant but the name as it appears on the credit card form was not applicant's name.

The application will be forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements, indicating that the $65 surcharge for filing the declaration after the thirty month period is required. At applicant's request, applicant's change of correspondence address will be made of record.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

22 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Salter & Michaelson
The Heritage Building
321 South Main Street
Providence, RI 02903-7128

In re Application of	:	
BRIGHT	:	DECISION ON PETITION
Application Serial No.: 10/575,557	:	
PCT No.: PCT/GB04/04360	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 15 October 2004	:	
Priority Date: 15 October 2003	:	
Atty Docket No.: 02838	:	
For: APPLICATOR	:	

This decision is in response to the "Petition For Submission of Declaration Under 37 CFR 1.47" filed 06 May 2008 in the United States Patent and Trademark Office (USPTO). As detailed below, the submission was initially filed 22 August 2007.

BACKGROUND

On 15 October 2004, applicant filed international application PCT/GB04/04360 which claimed priority to an earlier application filed 15 October 2003. A copy of the international application was transmitted to the United States by the International Bureau (IB) on 06 May 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 April 2006.

On 12 April 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 executed oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 01 March 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the 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, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e)). 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 24 August 2007, applicant responded with a petition under 37 CFR 1.47(b), executed declaration and petition for a four-month extension of time.

On 01 February 2008, applicant was mailed a "Notification of Acceptance" (Form

PCT/DO/EO/903) indicating a completion of the 35 U.S.C. 371 requirements on 24 August 2007.

On 06 May 2008, applicant responded with the present petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(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 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) through (6).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

In the present case it appears that Mr. Bright was not sent a complete set of application papers, but merely a declaration and assignment documents. The letter from Mr. Baker to Mr. Bright lists the documents included for execution but does not indicate that a copy of the application is being included for the inventor's review. While Mr. Bright indicates in his response that he does not intent to "sell or assign the patent of my invention" the response does not identify the above identified application, as such it is unclear whether Mr. Bright knows to which invention the request to execute is directed. As a complete set of papers has not been mailed to the inventor prior to his response, it is not possible to consider his subsequent silence as a refusal for the purposes of 37 CFR 1.47.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(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).

The Form PCT/DO/EO/903 mailed 01 February 2008 is hereby **VACATED**.

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

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

21 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

In re Application of	:	
BRIGHT	:	
Application No.: 10/575,557	:	DECISION ON RENEWED
PCT No.: PCT/GB04/04360	:	
Int. Filing Date: 15 October 2004	:	PETITION UNDER
Priority Date: 15 October 2003	:	
Atty Docket No.: 02838	:	37 CFR 1.47(b)
For: APPLICATOR	:	

This decision is in response to the "Renewed Petition Under 37 CFR 1.47(b)" filed 07 November 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 May 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration.

On 07 November 2008, applicant responded with the present renewed petition accompanied by a petition for a four-month extension of time and payment of the extension of time fee. The response is timely filed.

DISCUSSION

As detailed in the decision mailed 22 May 2008, 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).

As to item (2), with the filing of the present petition and accompanying exhibits applicant has shown that the inventor has been presented with a complete set of application papers and refused to execute the declaration. It is therefore proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 15 October 2004 under 35 U.S.C. 363, and will be given a date of **24 August 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

21 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Charles Bright
40 Somerville Road
Alrewas
NR Burton on Trent
Staffs
DE13 7EJ
UNITED KINGDOM

In re Application of
BRIGHT
Application No.: 10/575,557
PCT No.: PCT/GB04/04360
Int. Filing Date: 15 October 2004
Priority Date: 15 October 2003
Atty Docket No.: 02838
For: APPLICATOR

Dear Mr. Bright:

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

David M. Driscoll
SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128
UNITED STATES OF AMERICA

24 MAY 2006

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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MARTIN G. LINIHAN
HODGSON RUSS LLP
ONE M&T PLAZA, SUITE 200
BUFFALO, NY 14203

In re Application of	:	
SMITH et al.	:	
Application No.: 10/575,559	:	DECISION ON
PCT No.: PCT/GB04/04290	:	
Int. Filing Date: 07 October 2004	:	PETITION UNDER
Priority Date: 07 October 2003	:	
Attorney Docket No.: 018872.00004	:	37 CFR 1.137(b)
For: PROTECTIVE HELMET	:	

This decision is in response to applicant's submission filed 11 April 2006.

BACKGROUND

On 07 October 2004, applicant filed international application PCT/GB04/04290 which designated the U.S. and claimed a priority date of 07 October 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 07 April 2006.

On 11 April 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an 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 11 April 2006.

As to item (2), applicant submitted the petition fee on 11 April 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Bird et al. :
Application No. 10/575,580 : ON PETITION
Filed: April 11, 2006 :
Attorney Docket No. GB 030188 US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2618 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

25 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fitzgerald, John K.
Fulwider Patton
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles CA 90045

In re Application of	:	
MURRAY et al.	:	
Application No.: 10/575,589	:	DECISION
PCT No.: PCT/GB2004/004371	:	
Int. Filing Date: 14 October 2004	:	
Priority Date: 15 October 2003	:	
Attorney Docket No.: URQUH73865	:	
For: LABORATORY APPARATUS WITH TWO CABINETS	:	

This is a decision on applicants' "PETITION FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTOR UNDER 37 CFR 1.47(b) AND MPEP 409.03(b)", which has properly been treated as a petition under 37 CFR 1.47(a), filed 31 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 October 2004, applicants filed international application PCT/GB2004/004371, which designated the United States and claimed a priority date of 15 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 April 2006 (15 April 2006 being a Saturday).

On 12 April 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 01 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 31 May 2007, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a declaration of

inventors, a declaration of Sue Ratcliffe, a declaration of Andrew Skinn, and a declaration of John K. Fitzgerald.

DISCUSSION

Declaration of Inventors

The declaration of inventors filed 31 May 2007 contains a signature under the name of Fergus Francis Murray, the allegedly non-signing inventor. If this is Mr. Murray's signature, then the petition under 37 CFR 1.47(a) would be moot. If this is not Mr. Murray's signature, then applicants are required to specify whose signature it is.

In the event that this signature is not Mr. Murray's, the petition under 37 CFR 1.47(a) is addressed below.

Petition Under 37 CFR 1.47(a)

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

Items (1) and (3) have been satisfied.

Item (2) has not been satisfied. The declarations of Sue Ratcliffe, Andrew Skinn, and John K. Fitzgerald have been considered. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." Here, it does not appear that Mr. Murray was presented with a copy of the application papers. MPEP 409.03(d). Regarding the refusal of Ms. Murray, MPEP § 409.03(d) states in part:

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

It appears that the refusal was made to Mr. Skinn (paragraph 4 of the declaration of Sue Ratcliffe). However, the declaration of Mr. Skinn makes no reference to this refusal.

It is not clear whether item (4) has been met. As noted above, the declaration of inventors includes a signature under Fergus Francis Murray's name that may or may not be his signature.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response must specify whose signature is below non-signing inventor Fergus Francis Murray's name. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

0 4 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Fitzgerald, John K.
Fulwider Patton
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles CA 90045

In re Application of	:	
MURRAY et al.	:	
Application No.: 10/575,589	:	DECISION
PCT No.: PCT/GB2004/004371	:	
Int. Filing Date: 14 October 2004	:	
Priority Date: 15 October 2003	:	
Attorney Docket No.: URQUH73865	:	
For: LABORATORY APPARATUS WITH TWO CABINETS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 18 December 2007 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 14 October 2004, applicants filed international application PCT/GB2004/004371, which designated the United States and claimed a priority date of 15 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 April 2006 (15 April 2006 being a Saturday).

On 12 April 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 01 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 31 May 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, a declaration of Sue Ratcliffe, a declaration of Andrew Skinn, and a declaration of John K. Fitzgerald.

On 25 June 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision also noted that the declaration of inventors filed 31 May 2007 contains a signature under the name of Fergus Francis Murray and it was not clear whose signature this was.

On 18 December 2007, applicants filed the instant renewed petition under 37 CFR 1.47(a) (The submission title refers to 37 CFR 1.47(b) but has properly been treated as a petition under 37 CFR 1.47(a). See also the decision mailed 25 June 2007.) which was accompanied by a declaration of inventors signed by previously non-signing inventor Fergus Francis Murray and a petition/fee for a four month extension of time.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declarations of inventors filed 31 May 2007 and 18 December 2007 are in compliance with 37 CFR 1.497(a)-(b). The issue of the signature under the name of Fergus Francis Murray in the declaration of inventors filed 31 May 2007 is moot since a proper declaration signed by Mr. Murray has been provided.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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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AUG 20 2009

OFFICE OF PETITIONS

ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

In re Application of
Thierry Aubert
Application No. 10/575,597
Filed: April 13, 2006
Attorney Docket No. FR-AM 1982 NP

ON PETITION

This is a decision in response to the petition, filed June 18, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 18, 2009. This decision precedes the mailing of a Notice of Abandonment.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 18, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received June 18, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

29 SEP 2006

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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Roche Molecular Systems Inc.
Patent Law Department
1145 Atlantic Avenue
Alameda, CA 94501

In re Application of	:	
HAFERLACH, Torsten et al.	:	
Application No.: 10/575,600	:	
PCT No.: PCT/EP04/12470	:	
Int. Filing Date: 04 November 2004	:	DECISION
Priority Date: 04 November 2003	:	
Docket No.: 22335-US	:	
For: METHOD FOR DISTINGUISHING ...	:	
FROM TKD MUTATIONS	:	

This decision is in response to "Communication," filed in the above-captioned application on 26 May 2006.

BACKGROUND

On 04 November 2004, applicants filed international application PCT/EP04/12470, claiming a priority date of 04 November 2003. A copy of the international application was transmitted to the Office by the International Bureau on 12 May 2005. The deadline for entry into the national phase in the United States was 04 May 2006.

On 13 April 2006, applicants submitted a transmittal letter for entry into that national phase in the United States accompanied by the basic national fee.

On 26 May 2006, applicants submitted a declaration of the inventors.

DISCUSSION

The declaration submitted on 26 May 2006 included one "page 1 of 4," one "page 2 of 4," and two "page 3 of 4," and two "page 4 of 4." The two pages 3 and two pages 4 list the same inventors, but were separately executed. This indicates that at least two copies of the declaration were executed and that they have been pieced together to form a single composite declaration. While it is acceptable for inventors to execute separate copies of the declaration, the complete copy as executed by the inventor must be submitted. As such, the declaration fails to comply with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) with TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of the application.

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

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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James C. Wray
1493 Chain Bridge Road
Suite 300
McLean, VA 22101

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Dominique Lampe	:	
Application No. 10/575,603	:	DECISION ON PETITION
Filed: September 11, 2006	:	TO WITHDRAW
Attorney Docket No. KOB	:	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 13, 2009.

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

A review of the file record indicates that the power of attorney to James C. Wray and all attorneys/agents of record have been revoked by the assignee of the patent application on Febraury 10, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: HYRA IP, PLC
12120 Sunset Hills Road
Suite 600
Reston, VA 20190

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
10/575,603	09/11/2006	Dominique Lampe	KOB

CONFIRMATION NO. 1623

POWER OF ATTORNEY NOTICE

James C. Wray
1493 Chain Bridge Road
Suite 300
McLean, VA 22101

OC00000034940147

Date Mailed: 03/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2009.

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

/sllittle/

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

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United States Patent and Trademark Office
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23 JUL 2007

Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of :
SWEDIN, Anders :
Application No.: 10/575,622 :
PCT No.: PCT/SE04/01447 :
Int. Filing Date: 12 October 2004 :
Priority Date: 13 October 2003 :
Attorney Docket No.: 08806.0192 :
For: TOUCH SENSITIVE DISPLAY DEVICE :

DECISION
&
NOTIFICATION
OF ABANDONMENT

This decision is in issued in response to applicant's "Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 10 July 2007. No petition fee is due.

BACKGROUND

On 12 October 2004, applicant filed international application PCT/SE04/01447 which claimed a priority date of 13 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 April 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 13 April 2006.

On 13 April 2006, applicant filed a request to enter into the national stage under 35 U.S.C. 371 along with, among other things, a copy of the international application, and an information disclosure statement. The basic national fee was not submitted.

On 23 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notice of Insufficient Basic National Fee Required and/or Missing Copy of the International Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912). The notification indicated that the basic national fee had not been received.

On 06 November 2006, applicant filed "Response to Notice of Insufficient Basic National Fee Required and/or Missing Copy of International Application" which included: the $150 basic national fee; a preliminary amendment; and an executed Declaration claiming small entity status.

On 24 November 2006, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 06 November 2006. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 06 November 2006.

On 10 July 2007, applicant filed the present request which included a combined declaration and power of attorney executed by sole inventor, Anders SWEDIN.

DISCUSSION

A review of the application file and other United States Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO/US on 06 November 2006. Specifically, the basic national fee of $300 ($150 for a small entity) was due on 13 April 2006. On that date, applicant submitted a transmittal letter (PTO-1390) but failed to provide an authorization to charge a Deposit Account the basic national fee. Applicant therefore failed to pay the basic national fee before expiration of the thirty months from the priority date. Accordingly, pursuant to 37 CFR 1.495(h), this application became abandoned as of midnight 13 April 2006.

The Notification Of Acceptance (Form PCT/DO/EO/903) and Official Filing Receipt mailed on 24 November 2006 is therefore appropriately vacated.

RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The petition under 37 CFR 1.181 requesting a corrected Notification of Acceptance and Official Filing Receipt is **DISMISSED** without prejudice.

The Notification Of Acceptance (Form PCT/DO/EO/903) and Official Filing Receipt mailed on 24 November 2006 are hereby VACATED.

This application is **ABANDONED** as of midnight 13 April 2006 for failure to timely file the basic national fee.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
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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10 OCT 2007

Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of :
SWEDIN, Anders :
Application No.: 10/575,622 : DECISION ON
PCT No.: PCT/SE04/01447 : PETITION
Int. Filing Date: 12 October 2004 :
Priority Date: 13 October 2003 :
Attorney Docket No.: 08806.0192 :
For: TOUCH SENSITIVE DISPLAY DEVICE :

The petition to revive under 37 CFR 1.137(b) filed 21 September 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the basic national fee (previously submitted on 06 November 2006) 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

27 MAY 2009

United States Patent and Trademark Office

Commissioner for Patents
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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Yamana et al.	:	
Application No. 10/575,626	:	
PCT No.: PCT/JP2004/015620	:	
Int. Filing Date: 21 October 2004	:	DECISION
Priority Date: 21 October 2003	:	
Att. Docket No.: Q93742	:	
For: Novel Protein And Production Process And Use Thereof	:	

The petition to revive under 37 CFR 1.137(b) filed on 09 February 2009 in the above-captioned application is hereby **DISMISSED**, without prejudice, as follows:

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

A review of the application file reveals that applicants have paid the petition fee. The surcharge under 37 CFR 1.492(h) has been paid, but the remainder of the required reply (in the form of an oath or declaration compliant with 37 CFR 1.497(a) and (b)) has not been filed. It is noted that petitioner filed a Supplemental ADS on 29 June 2007 which provides citizenship information, but an ADS may not be relied upon to provide the citizenship, per 37 CFR 1.497(a)(3). As such, a new declaration listing the citizenship information at the time it is executed is required (that is, petitioner may not alter the existing, signed declaration document by later adding the citizenship data thereto).

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 Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

3 1 AUG 2009

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Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
Yamana et al. :
Application No. 10/575,626 :
PCT No.: PCT/JP2004/015620 :
Int. Filing Date: 21 October 2004 : DECISION
Priority Date: 21 October 2003 :
Att. Docket No.: Q93742 :
For: Novel Protein And Production :
Process And Use Thereof :

The renewed petition to revive under 37 CFR 1.137(b) filed on 29 June 2009 in the above-captioned application is hereby **GRANTED**, as follows:

Petitioner has already stated that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have paid the petition fee. The surcharge under 37 CFR 1.492(h) has been paid. Applicants have also filed a declaration compliant with 37 CFR 1.497(a) and (b), on 29 June 2009. No Terminal Disclaimer is required. Accordingly, all of the requirements for relief under 37 CFR 1.137(b) now have been satisfied.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 June 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

3 1 AUG 2009

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of
Yamana et al.
Application No. 10/575,626
PCT No.: PCT/JP2004/015620
Int. Filing Date: 21 October 2004
Priority Date: 21 October 2003
Att. Docket No.: Q93742
For: Novel Protein And Production Process And Use Thereof

DECISION

The renewed petition to revive under 37 CFR 1.137(b) filed on 29 June 2009 in the above-captioned application is hereby **GRANTED**, as follows:

Petitioner has already stated that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have paid the petition fee. The surcharge under 37 CFR 1.492(h) has been paid. Applicants have also filed a declaration compliant with 37 CFR 1.497(a) and (b), on 29 June 2009. No Terminal Disclaimer is required. Accordingly, all of the requirements for relief under 37 CFR 1.137(b) now have been satisfied.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 June 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/23/2010

Applicant	: Patricia Salvati	: DECISION ON REQUEST FOR
Patent Number	: 7649005	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/575,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

19 MAY 2006

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BARNES & THORNBURG
750-17th Street NW
Suite 900
Washington, D.C. 20006-4675

In re Application of:
POWER, Gary, Fairless
U.S. Application No.: 10/575,634
Int'l Filing Date: 07 October 2004
Priority Date: 09 October 2003
Attorney's Docket No.: 42399/44787
For: SECURITY DOCUMENT WITH UPCONVERTING MATERIAL

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 11 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in entering the National Phase on or before the due date of April 9, 2006, until the filing of a grantable petition was unintentional" satisfies the requirement 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 United States of America.

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, including mailing a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

0 4 JAN 2008

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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH NC 27627

In re Application of	:	
TOORN	:	
Application No.: 10/575,639	:	DECISION
PCT No.: PCT/EP2004/052204	:	
Int. Filing Date: 16 September 2004	:	
Priority Date: 15 October 2003	:	
Attorney's Docket No.: 956413	:	
For: DEVICE HAVING A JOYSTICK KEYPAD	:	

This decision is in response to applicant's submission filed 15 October 2007 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 September 2004, applicants filed international application PCT/EP2004/052204, which designated the U.S. and claimed a priority date of 15 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 06 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 April 2006 (15 April 2006 being a Saturday).

On 13 April 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 and a copy of a declaration under PCT Rule 4.17(iv).

On 06 December 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. This NOTIFICATION set a two month extendable period for reply.

On 18 December 2006, applicant filed the instant submission which indicated that a declaration under PCT Rule 4.17(iv) had been submitted in the international phase. This submission has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Applicant in effect requests that the NOTIFICATION OF MISSING REQUIREMENTS be vacated and the declaration filed under PCT Rule 4.17(iv) be accepted. The NOTIFICATION

OF MISSING REQUIREMENTS indicated that a declaration of inventorship was required. However, as set forth in applicants' submission filed 18 December 2006, a declaration of inventorship under PCT Rule 4.17 having an electronic signature was filed in the international application within the time limit under PCT Rule 26ter.1. This declaration is acceptable. Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS mailed is hereby VACATED.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF MISSING REQUIREMENTS mailed 06 December 2006 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

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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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

Mail Date: 04/20/2010

Applicant	: Hermanus J. Effing	: DECISION ON REQUEST FOR
Patent Number	: 7570030	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **519** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DEC 2007

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Jordan & Hamburg
122 East 42nd Street
Suite 4000
New York, NY 10168

In re Application of	:	
PANICKE, et al.	:	
Application No.: 10/575,647	:	DECISION ON PETITION
PCT No.: PCT/EP04/52482	:	
Int. Filing Date: 08 October 2004	:	UNDER 37 CFR 1.181
Priority Date: 13 October 2003	:	
Atty Docket No.: F-9049	:	
For: DEVICE FOR COUPLING AN ULTRASOUND CLAMP-ON MEASURING HEAD PLACED ON THE WALL OF A TUBE	:	

This is a decision on applicant's correspondence filed 22 October 2007 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 08 October 2004, applicant filed international application PCT/EP04/52482, which claimed priority to an earlier application filed 13 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 April 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 13 April 2006.

On 13 April 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; an Information Disclosure Statement and a First Preliminary Amendment.

On 12 June 2006, applicant filed an executed combined declaration and power of attorney of the inventors.

On 15 March 2007, 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 and date of completion of all 35 U.S.C. 371 requirements as 26 June 2006.

On 29 March 2007, applicant filed a petition claiming that the 371 requirements were satisfied on 12 June 2006 and requesting a new Form PCT/DO/EO/903 and corrected filing

receipt. An additional copy of the petition was filed on 22 October 2007.

DISCUSSION

A review of the application file, as well as, the presently filed stamped return postcard finds that applicant is correct that the last of the 35 U.S.C. 371 requirements (the executed combined declaration and power of attorney of the inventors) was filed with the USPTO on 12 June 2006. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 08 October 2004 under 35 U.S.C. 363 and will be given a date of **12 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 15 March 2007 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 0 3 2010

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GLOBAL PATENT GROUP - CBX
10411 Clayton Road
Suite 304
ST. LOUIS MO 63131

In re Application of:	:
Ekberg et al.	:
Serial No.: 10/575,701	: PETITION DECISION
Filed: December 11, 2006	:
Attorney Docket No.: **CBX0007-506-US**	:

This is in response to the petition under 37 CFR § 1.181, filed February 11, 2010, requesting that the finality of the Office action of December 11, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on June 18, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 3 and 10-15 were pending. The examiner rejected claim 14 under 35 USC 112, second paragraph, as indefinite. Claims 3, 10, 13 and 15 were rejected under 35 USC 103 (a) as being unpatentable over Ido et al. Claim 12 was rejected under 35 USC 103 (a) as being unpatentable over Ido et al. as applied to claims 3, 10, 13 and 15 above, and further in view of Johansson et al. Claim 11 was rejected under 35 USC 103 (a) as being unpatentable over Ido et al. as applied to claims 3, 10, 13 and 15 above, and further in view of Wahren et al. and Johansson et al.

In reply to the non-final Office action of June 18, 2009, applicants filed a response on September 18, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On December 11, 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 3 and 10-15 were pending. Claims 3, 10 and 12-15 were rejected under 35 USC 102 (b) as anticipated by Johansson et al. Claim 11 was rejected under 35 USC 103 (a) as being unpatentable over Johansson et al. as applied to claims 3, 10 and 12-15 above, and further in view of Wahren et al.

In response thereto, applicants filed this petition on February 11, 2010, requesting that the finality of the Office action of December 11, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on February 11, 2010, applicants request that the finality of the Office action of December 11, 2009 be withdrawn as improper. Applicants argue "The new grounds of rejection were not necessitated by the present amendment because (i) with respect to claims 3, 10 and 12-15 the amendments merely clarify the claimed subject matter and do not introduce any new claim elements that are substantially different from those previously presented, and (ii) with respect to claim 11, the claim was not amended."

Specifically, applicants argue "the current amendment to claim 3 clarifies only the form of the claim and does not substantially change its scope. In particular the current amendment effectively replaces the term "once daily dose" with the term "once daily administration". Applicants note that the instant specification (paragraph [0025] of US application 10/575,701), defines these terms identically. Thus the amended claim is substantially the same scope as the previously pending claim, and the Applicant's amendment cannot have necessitated the new art rejection."

Applicants' arguments are well taken and persuasive since applicants' amendments did not necessitate the new rejection. As noted by applicants, 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).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

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' arguments are well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed December 11, 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 February 11, 2010 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.

George C. Elliott

George Elliott
Director, Technology Center 1600

31 MAY 2006
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Novozymes North America, Inc.
500 Fifth Avenue, Suite 1600
New York, New York 10110

In re Application of
KALUM et al.
Application No.: 10/575,702
PCT No.: PCT/DK04/00533
Int. Filing Date: 11 August 2004
Priority Date: 13 August 2003
Attorney Docket No.: 10419.204-US
For: HIGH TEMPERATURE ENZYMATIC VEGETABLE PROCESSING

DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 13 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APR 10 2008

OFFICE OF PETITIONS

Applicant: Shimizu et al.
Appl. No.: 10/575,703
International Filing Date: October 14, 2004
Title: CONTENT USE CONTROL DEVICE, RECORDING DEVICE, REPRODUCTION DEVICE, RECORDING MEDIUM, AND CONTENT USE CONTROL METHOD
Attorney Docket No.: 1907-0233PUS1
Pub. No.: US 2007/0124251-A1
Pub. Date: May 31, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 9, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because the title of the invention, "Content Use Control Device, Recording Device, Reproduction Device, Recording Medium, And Content Use Control Method," is misprinted as "Content Use Control Device, Reording Device, Reproduction Device, Recording Medium, And Content Use Control Method" in the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on August 9, 2007, was not timely filed under 37 CFR 1.221(b).

On March 12, 2007, a Filing Receipt was mailed by the Office, which reflects the incorrect title. To avoid this type of problem in the future, applicants' representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

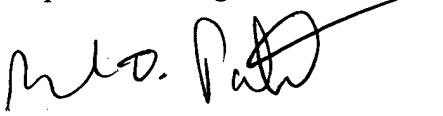
Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

14 JAN 2009

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CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK NY 10016

In re Application of:
KOIKE, Tohru, et al.
U.S. Application No.: 10/575,714
PCT Application No.: PCT/JP2004/015347
International Filing Date: 12 October 2004
Priority Date: 16 October 2003
Attorney's Docket No.: F04-018US
For: METHOD FOR MEASURING A SURFACE PLASMON RESONANCE AND NOBLE METAL COMPOUND USED FOR THE SAME

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to applicants' "Request To Correct Transmittal Letter" filed 23 September 2008, treated herein as a petition under 37 CFR 1.182. Pursuant to the authorization contained in the Form PTO-1390 filed with such petition, Deposit Account No. 03-1030 will be charged the required $400 petition fee.

BACKGROUND

On 12 October 2004, applicants filed international application PCT/JP2004/015347. The international application claimed a priority date of 16 October 2003, and it designated the United States. On 28 April 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., 16 April 2006.

On 12 April 2006, applicants filed papers to initiate a U.S. national stage application. This submission included, among other materials, a Transmittal Letter (Form PTO-1390), an application data sheet (ADS), an English translation of PCT/JP2004/015347, and payment of the basic national fee.

The ADS filed 12 April 2006 specifically identify the international application number as PCT/JP2004/015347. However, the Form PTO-1390 Transmittal Letter filed on 12 April 2006 identified the international application as PCT/JP2004/015437.

On 08 May 2006, applicants filed a declaration executing international application number PCT/JP2004/015347, accompanied by the surcharge for filing the declaration later than thirty months after the priority date.

On 15 September 2008, the United States Designated Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497. The Notification indicated that the declaration submitted on 08 May 2006 was defective in that the inventors listed thereon did not correspond to those set forth on the international application.

On 23 September 2008, applicants filed the "Request To Correct Transmittal Letter" considered herein as a petition under 37 CFR 1.182. The petition confirms that the correct international application number is PCT/JP2004/015347, indicates that the listing of international application number PCT/JP2004/015437 in the original PTO-1390 was an error, and requests correction of the applicable international application number to PCT/JP2004/015347.

DISCUSSION

As set forth above, the Form PTO-1390 filed by applicants to initiate this national stage application incorrectly identified the international application to which the present national stage filing was directed. Correction of this error is required before the materials filed 12 April 2006 can be treated as having been directed to international application PCT/JP2004/015347, as necessary to avoid abandonment of this international application with respect to the United States. The correction of such an error by the applicant requires a grantable petition under 37 CFR 1.182. Accordingly, applicants' "Request To Correct Transmittal Letter," which requests correction of the international application number, has been treated as such a petition.

The present petition confirms that the incorrect listing of international application number PCT/JP2004/15437 in the original Form PTO-1390 was the result of an error ("two numbers transposed"), and it confirms that the correct international application number is PCT/JP2004/15347. A review of the materials included with the original application submission confirms that the correct international application number, PCT/JP2004/15347 was indicated therein (specifically, on the ADS). In addition, applicants have provided the authorization to charge Deposit Account No. 03-1030 for required fees; based on this authorization, applicants will be charged the required petition fee.

The present submission satisfies the requirements for a grantable petition to correct the inadvertent inconsistency in the international application number identified in the original application papers. Accordingly, the materials filed herein on 12 April 2006 will be treated as directed to international application PCT/JP2004/0015347.

It is noted that, based on this correction, the inventors listed on the declaration filed 08 May 2006 are no longer inconsistent with the inventors listed on the applicable international application. The Notification of Missing Requirements mailed 15 September 2008, based as it was on the purported inconsistency between the inventors named on the declaration and those named on the international application, is appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The materials filed herein on 12 April 2006, including the basic national fee payment, will be treated as the U.S. national stage of PCT/JP2004/015347.

Deposit Account No. 03-1030 will be charged the required $400 petition fee.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 15 September 2008 is hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 May 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Wolfgang Pfeiffer	: DECISION ON REQUEST FOR
Patent Number	: 7581617	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,717	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **309** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

JAN 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,551,022 :
Issue Date: 06/23/2009 :
Application Number: 10/575,738 : ON PETITION
Filing or 371(c) Date: 09/26/2007 :
Attorney Docket Number: GRP-0158 :

This is a decision on the paper filed on October 7, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

19 NOV 2007

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35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 Lavaca, Suite 800
Austin, TX 78701

In re Application of :
PINTO, Yigal M. :
U.S. Application No.: 10/575,745 :
PCT No.: PCT/EP2004/010879 :
Int. Filing Date: 27 September 2004 : **DECISION**
Priority Date: 09 October 2003 :
Attorney's Docket No.: 604-00100 :
For: METHOD FOR IDENTIFYING A SUBJECT :
AT RISK OF DEVELOPING HEART :
FAILURE BY DETERMINING THE :
THE LEVEL OF GALECTIN-3 . . . :

This is a decision on the papers filed on 09 July 2007 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 09 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that additional claim fees, an oath or declaration and a surcharge fee was required. A two-month time period for response was set with extensions of time available.

On 09 April 2007, applicant filed a response which was accompanied by, *inter alia*, a $130.00 surcharge fee and authorization to charge any fees to Deposit Account No. 50-1505. An executed declaration was listed as one of the papers submitted but has not been located in the file.

On 14 May 2007, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that certain fees and a declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given one month or the extendable time remaining in the Form PCT/DO/EO/905.

On 09 July 2007, applicant filed a response which was accompanied by, *inter alia*, a preliminary amendment, amended claims, a copy of the declaration filed 09 April 2007, a date-stamped postcard receipt for the 09 April 2007 filing, authorization to charge $200.00 for an independent claim fee and any other required fees to Deposit Account No. 50-1505.

DISCUSSION

Applicant claims that an executed declaration was submitted on 09 April 2007 along with the $130.00 surcharge fee. A review of the subject application shows that the declaration purportedly filed 09 April 2007 was not 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, applicant provided a copy of the date-stamped postcard receipt for the documents submitted 09 April 2007. The postcard receipt records that an "Originally executed Declaration (2 pages)" were received in the USPTO. The postcard receipt is stamped "Rec'd PCT/PTO 09 APR 2007" across its face. The U.S. application number, attorney docket number, filing date and name of inventor were listed on the postcard receipt.

Accordingly, applicant has provided *prima facie* evidence that a declaration was originally received by the USPTO on 09 April 2007.

DECISION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The declaration filed 09 April 2007 is in compliance with 37 CFR 1.497(a) & (b). The $130.00 surcharge fee was paid.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

2 3 JUN 2008

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Ladas & Parry, LLP
26 West 61st Street
New York, NY 10023

In re Application of :
TALLBERG, Thomas :
U.S. App. No.: 10/575,752 :
PCT No.: PCT/FI04/00618 : DECISION ON REQUEST
Int. Filing Date: 15 October 2004 :
Priority Date: 17 October 2003 :
Attorney Docket No.: U0162616 :
For: AGENT AND METHOD FOR TREATING CANCER COMPRISING STRONTIUM, AMINO ACID(S) AND MINERAL AGENT(S)

This decision is issued in response to applicant's "Request for Corrected Filing Receipt" filed 24 November 2006. Applicant requests that the above-identified application be accorded a 35 U.S.C. 371(c) filing date of 12 April 2006.

BACKGROUND

On 13 April 2006, applicant 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 executed declaration.

On 31 October 2006, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 13 April 2004. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 13 April 2004.

On 24 November 2006, applicant filed a "Request for Corrected Filing Receipt."

DISCUSSION

Applicant requests a corrected filing date or 35 U.S.C. 371(c) date from 13 April 2006 to 12 April 2006. The actual filing date of the present application is the international filing date, i.e., 15 October 2004 (see 35 U.S.C. 363). The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements

set forth in 35 U.S.C. 371(c) for entry into the national stage were completed, see MPEP §1895.01.

A review of the application file reveals that the basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, and an executed declaration were filed with the USPTO on 13 April 2006. Applicant has not provided any evidence, such as a USPS Express Mail Label or date stamped return receipt post card, that evidences receipt by the Office of the national stage papers allegedly filed on 12 April 2006. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 12 April 2006 is not proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 13 April 2006.

CONCLUSION

For the reasons above, applicant's request to change the filing date on the filing receipt 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 to file a response. No petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

0 6 JAN 2009

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Ladas & Parry, LLP
26 West 61st Street
New York, NY 10023

In re Application of :
TALLBERG, Thomas :
U.S. App. No.: 10/575,752 :
PCT No.: PCT/FI04/00618 : DECISION ON REQUEST
Int. Filing Date: 15 October 2004 :
Priority Date: 17 October 2003 :
Attorney Docket No.: U0162616 :
For: AGENT AND METHOD FOR TREATING CANCER COMPRISING STRONTIUM, AMINO ACID(S) AND MINERAL AGENT(S)

This decision is issued in response to applicant's Request for Corrected Filing Receipt filed 21 August 2008. Applicant requests, treated herein under 37 CFR 1.10(c), that the above-identified application is accorded a 35 U.S.C. 371(c) filing date of 12 April 2006.

BACKGROUND

On 12 April 2006, applicant 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 executed declaration.

On 31 October 2006, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 13 April 2006. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 13 April 2006.

On 24 November 2006, applicant filed a "Request for Corrected Filing Receipt." In a decision dated 23 June 2008, applicant's request was dismissed without prejudice.

On 21 August 2008, applicant filed a renewed request.

DISCUSSION

Applicant requests a corrected filing date or 35 U.S.C. 371(c) date from 13 April 2006 to 12 April 2006. The actual filing date of the present application is the international filing date, i.e., 15 October 2004 (see 35 U.S.C. 363). The date in the filing date portion on

the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed, see MPEP §1895.01

A copy of the Customer Copy of the "Express Mail" label No.#EV815583741US filed with the petition bears a "Date In" date of 12 April 2006. The same "Express Mail" label number was placed on the transmittal letter for entry into the national stage in the United States and accompanying papers located in the application file, but was date stamped as received in the PTO on 13 April 2006.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that transmittal letter for entry into the national stage in the United States and accompanying papers were filed on 12 April 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 12 April 2006, and therefore the indication of a filing date or 35 U.S.C. 371(c) date of 13 April 2006, on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and the Official Filing Receipt are incorrect.

CONCLUSION

Applicant's request for issuance of a corrected filing receipt under 37 CFR 1.10(c) is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) and Official Filing Receipt are hereby VACATED.

The National Stage Processing Branch of the International Division will be instructed to issue a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 12 April 2006 and a corrected filing receipt which identifies 12 April 2006 as the filing date.

Thereafter, this application will be referred to its appropriate Art Unit.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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In re Application of :
Steven Van Lerberghe et al. :
Application No. 10/575,770 : DECISION ON PETITION
Filed: April 12, 2006 :
Attorney Docket No. NL031210US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 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, July 13, 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 October 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and response, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2818 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348 2530 Berryessa Road
San Jose, CA 95132

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NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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FEB 26 2009

OFFICE OF PETITIONS

In re Application of :
Gerhard Runze :
Application No. 10/575,773 : DECISION ON PETITION
Filed: April 12, 2006 :
Attorney Docket No. NL031209US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified design application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Aaron Waxler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935) mailed, July 1, 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 response after Ex Parte Quayle , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

This application is being referred to Technology Center Art Unit 2819 for further processing in accordance with this decision on petition.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Ron Daniel	: DECISION ON REQUEST FOR
Patent Number	: 7620235	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **502** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Wataru Kakinoki	: DECISION ON REQUEST FOR
Patent Number	: 7659854	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **879** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 SEP 2006

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James R. Cypher
405 14th Street
Suite 1607
Oakland, CA 94612

In re Application of	:	
BENESI, Steve C.	:	
Application No.: 10/575,820	:	DECISION
PCT No.: PCT/US04/18644	:	
Int. Filing Date: 12 June 2004	:	ON PETITION UNDER
Priority Date: 16 June 2003	:	
Docket No.: SCB-0005	:	37 CFR 1.137(b)
For: SLURRY FILTRATION SYSTEM AND APPARATUS	:	

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 13 April 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 has been paid.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 13 April 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

09 MAY 2006

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SUGHRUE MION, PLLC
2100 Pennsylvania Ave., Suite 800
Washington, DC 20037

In re Application of :
BRIGGS, William E. :
U.S. Application No.: 10/575,865 :
PCT No.: PCT/AU2004/000211 :
Int. Filing Date: 21 February 2004 :
Priority Date: 24 February 2003 :
Attorney Docket No.: Q93965 :
For: METHOD AND APPARATUS FOR PROCESSING FLUIDS :

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 with the national stage papers on 17 April 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.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted. The surcharge fee of $130.00 was charged to Deposit Account No. 19-4880 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 February 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 April 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Blyth et al.	:	
Application No.: 10/575,876	:	DECISION
PCT No.: PCT/EP04/03472	:	
Int. Filing Date: 01 April 2004	:	ON
Priority Date: 17 October 2003	:	
Attorney Docket No.: Q94363	:	PETITION
For: An Electroactive Device Based On Organic Compounds, Comprising A Float-Glass Substrate	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 23 May 2007.

BACKGROUND

This international application was filed on 01 April 2004, claimed an earlier priority date of 17 October 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 May 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 17 April 2006. Applicants filed *inter alia* the basic national fee on 17 April 2006.

On 23 October 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 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 petitioner has paid $130.00 toward the $200.00 petition fee. The remaining $70.00 is being charged to Deposit Account No. 19-4880, as authorized by the petition.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that joint inventors Perrone, Carallo, Maiorano and Cingolani have refused to execute the application. Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands

exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Petitioner has provided a "Declaration of renunciation" (in English and Italian), signed by inventors Perrone, Carallo, Maiorano and Cingolani, stating in part "that they have read and understood the contents of" the instant application and "that they don't want to sign neither the Inventor's Declaration, nor the Power of Attorney Form, nor any other document concerning the grant procedure related to the above mentioned US Patent Application." This evidence satisfies requirement (2).

Regarding **requirement (3)**, the "Declaration of renunciation" petition includes addresses for the relevant inventors, but petitioner has not provided an explicit statement of their "last known" addresses, either by ratifying the addresses on the "Declaration of renunciation" or by listing them separately. *See* MPEP 409.03(e). Accordingly, requirement (3) has not been satisfied.

Regarding **requirement (4)**, the declaration of inventorship accompanying the instant petition is t acceptable.

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

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In re Application of	:	
Blyth et al.	:	
Application No.: 10/575,876	:	DECISION
PCT No.: PCT/EP04/03472	:	
Int. Filing Date: 01 April 2004	:	ON
Priority Date: 17 October 2003	:	
Attorney Docket No.: Q94363	:	PETITION
For: An Electroactive Device Based On Organic Compounds, Comprising A Float-Glass Substrate	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 30 October 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.47(a) filed on 23 May 2007 was dismissed, without prejudice, because

> Regarding **requirement (3)**, the "Declaration of renunciation" includes addresses for the relevant inventors, but petitioner has not provided an explicit statement of their "last known" addresses, either by ratifying the addresses on the "Declaration of renunciation" or by listing them separately. *See* MPEP 409.03(e). Accordingly, requirement (3) has not been satisfied.

In response, petitioner has now provided an explicit statement of the last-known addresses of the non-signing inventors.

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 each non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **23 May 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

10 DEC 2007

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mrs. Elisabetta Perrone
Via Cairoli 146, I-73015
Salice Salentino (Lecce)
ITALY

In re Application of
Blyth et al.
Application No.: 10/575,876
PCT No.: PCT/EP04/03472
Int. Filing Date: 01 April 2004
Priority Date: 17 October 2003
Attorney Docket No.: Q94363
For: An Electroactive Device Based On Organic Compounds,Comprising A Float-Glass Substrate

Dear Mrs. Perrone:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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United States Patent and Trademark Office

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Alexandria, VA 22313-1450
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Mrs. Sonia Carallo
Via Giordano 32, I-73040
Aradeo (Lecce)
ITALY

In re Application of
Blyth et al.
Application No.: 10/575,876
PCT No.: PCT/EP04/03472
Int. Filing Date: 01 April 2004
Priority Date: 17 October 2003
Attorney Docket No.: Q94363
For: An Electroactive Device Based On Organic Compounds,Comprising A Float-Glass Substrate

Dear Mrs. Carallo:

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).

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George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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Mr. Vincenzo Maiorano
Via Cesira Pozzolini 47 bis, I-73013
Galatina (Lecce)
ITALY

In re Application of
Blyth et al.
Application No.: 10/575,876
PCT No.: PCT/EP04/03472
Int. Filing Date: 01 April 2004
Priority Date: 17 October 2003
Attorney Docket No.: Q94363
For: An Electroactive Device Based On Organic Compounds,Comprising A Float-Glass Substrate

Dear Mr. Maiorano:

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).

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George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
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WASHINGTON DC 20037

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Mr. Roberto Cingolani
Via Emma Indraccolo 20, I-73100
Lecce
ITALY

In re Application of
Blyth et al.
Application No.: 10/575,876
PCT No.: PCT/EP04/03472
Int. Filing Date: 01 April 2004
Priority Date: 17 October 2003
Attorney Docket No.: Q94363
For: An Electroactive Device Based On Organic Compounds,Comprising A Float-Glass Substrate

Dear Mr. Cingolani:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
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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 signatures of the joint inventors. The petition has been granted. A notice has been sent to the last known address of each of the non-signing inventors. The inventors whose signatures are missing (Elisabetta PERRONE, Sonia CARALLO, Vincenzo MAIORANO and Roberto CINGOLANI) 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/EP2004/003472 and was filed on April 1, 2004 in the names of Robert Ian Renton BLYTH, Julie THOMPSON, Elisabetta PERRONE, Sonia CARALLO, Vincenzo MAIORANO, Roberto CINGOLANI, Angelo CROCE and Alessandro DANEU for the invention entitled AN ELECTROACTIVE DEVICE BASED ON ORGANIC COMPOUNDS, COMPRISING A FLOAT-GLASS SUBSTRATE. The national stage application number is 10/575,876 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of May 23, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Yasuhiro Yamakoshi	: DECISION ON REQUEST FOR
Patent Number	: 7605481	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

3 1 MAY 2007

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Ronald R. Santucci
FROMMER LAWRENCE & HAUG
745 Fifth Avenue
New York, NY 10151

In re Application of	:	
HEATHER *et al*	:	
U.S. Application No.: 10/575,925	:	
PCT No.: PCT/GB2004/004400	:	
Int. Filing Date: 15 October 2004	:	**DECISION**
Priority Date: 17 October 2003	:	
Attorney Docket No.: 930058-2006	:	
For: BUILDING MODULES	:	

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 01 May 2007.

BACKGROUND

On 01 March 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 01 May 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; a $130.00 petition fee; a declaration signed by four of the five named inventors; and a copy of a letter and an email sent to the nonsigning inventor.

DISCUSSION

Applicants claim that one of the five named inventors, Richard Clive Ogden, refuses to cooperate[1] in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 01 March 2007.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor.

---

[1] Applicants did not suggest that Mr. Ogden could not be located in the subject petition. As such, this claim will not be considered here.

Concerning item (1), the petition fee changed to $200.00. The $70.00 difference has been charged to Counsel's Deposit Account No. 50-0320 as authorized.

With regards to item (3), the last known address of the missing inventor has been provided.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by four of the five co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Regarding item (2), applicants' claim that Mr. Ogden refuses to cooperate. In support of this claim, applicants submitted a copy of a letter dated 31 July 2006 mailed to the last known address of the nonsigning inventor and a copy of an email sent to Mr. Ogden. Applicants state that no response from Mr. Ogden has been received.

This is insufficient to show a refusal to cooperate. Section 409.03(d) of the MPEP discusses a refusal to cooperate and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.
>
> Here, petitioners have not shown that a complete copy of the application papers

was forwarded to Mr. Ogden. Both the letter and email did not contain a copy of the application papers. Moreover, there is no evidence presented that Mr. Ogden received any of these documents. Applicants must provide a complete copy of the application papers including a request to sign a declaration to Mr. Ogden and verify that Mr. Ogden (or his representative) received the papers. A signed postal receipt would be sufficient. The failure to respond to a request in a timely manner may constitute a refusal to cooperate. If applicants determine that Mr. Ogden cannot be located, the procedures outlined in section 409.03(d) of the MPEP must be followed and documentary evidence of any search provided.

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
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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13 AUG 2007

Ronald R. Santucci
FROMMER LAWRENCE & HAUG
745 Fifth Avenue
New York, NY 10151

In re Application of :
HEATHER *et al* :
U.S. Application No.: 10/575,925 :
PCT No.: PCT/GB2004/004400 :
Int. Filing Date: 15 October 2004 : **DECISION**
Priority Date: 17 October 2003 :
Attorney Docket No.: 930058-2006 :
For: BUILDING MODULES :

This is a decision on the papers filed on 31 July 2007 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 31 May 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 31 July 2007, applicants filed the renewed petition which was accompanied by a declaration executed by the nonsigning inventor.

DISCUSSION

Applicants previously claimed that Mr. Richard Clive Ogden refused to execute a declaration in the above-captioned application. As such, a petition under 37 CFR 1.47(a) was submitted. However, applicants failed to complete all the requirements for a grantable petition.

In the renewed petition, applicants submitted a declaration executed by Mr. Ogden.

No further action on the petition under 37 CFR 1.47(a) is required.

CONCLUSION

For the reason discussed above, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

The declaration filed 31 July 2007 complies with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 15 October 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 31 July 2007.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,931	04/14/2006	Hiroyuki Ebinuma	289708US0X PCT	7044

22850 7590 09/22/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
COOK, LISA V	

ART UNIT	PAPER NUMBER
1641	

NOTIFICATION DATE	DELIVERY MODE
09/22/2009	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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SEP 2 2 2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :	:
Ebinuma et al.	:
Serial No.: 10/575,931	: PETITION
Filed: April 14, 2006	:
Attorney Docket No: **289708US0X PCT**	:

This is in reply to the petition filed September 4, 2009 under 37 CFR § 1.181 to provide written acknowledgment of the information disclosure statement (IDS) filed May 3, 2007.

DISCUSSION

Applicants have provided sufficient documentation that being on IDS having a date stamp thereon to prove an IDS was, in fact, filed May 3, 2007. Accordingly, applicants' point is well taken that the IDS of May 3, 2007 should be considered.

In view of the above reason, the petition is **GRANTED.**

This application will be forwarded to the examiner for proper consideration of the IDS filed on May 3, 2007.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

09 MAY 2006

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of ZHANG et al :
U.S. Application No.: 10/575,948 :
PCT Application No.: PCT/CN03/01094 :
Int. Filing Date: 19 December 2003 : DECISION
Priority Date Claimed: 10 September 2003 :
Attorney Docket No.: 101402.57603US :
For: A METHOD OF PREPARING MEMANTINE HYDROCHLORIDE :

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 13 April 2006.

BACKGROUND

On 19 December 2003, applicant filed international application PCT/CN03/01094, which claimed priority of an earlier China application 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/CN03/01094 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 April 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), the petition states, "The entire delay in submitting the requirements for entry into the U.S. National Stage was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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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31 AUG 2007

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
MASON, Rex, Allan
U.S. Application No.: 10/575,960
PCT No.: PCT/NZ2004/000249
International Filing Date: 12 October 2004
Priority Date: 13 October 2003
Attorney's Docket No.: JAMES117.002APC
For: AN IMPROVED FLUID TREATMENT SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 28 June 2007. Petitioner has filed the required petition fee.

BACKGROUND

On 12 October 2004, applicant filed international application PCT/NZ2004/000249. The application claimed a priority date of 13 October 2003, and it designated the United States. On 21 April 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., 13 April 2006.

On 12 April 2006, petitioner filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee.

On 27 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration acceptable under 37 CFR 1.497 was required.

On 28 June 2007, petitioner filed a response to the Notification Of Missing Requirements, with required five-month extension fee. The response included the petition under 37 CFR 1.47(b) considered herein, which seeks acceptance of the application without the signature of the inventor, whom petitioner states has refused to execute the application papers.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be

reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; (5) proof of proprietary interest in the application: and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The present submission satisfies items (1), (3), and (4).

Regarding item (1), petitioner has submitted the required $200 petition fee. Item (1) is therefore satisfied.

Regarding item (2), where it is asserted that the an inventor has refused to execute the declaration, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided a statement from Sandra Jo Wilcocks, with accompanying exhibits, as evidence of the efforts to obtain the signature of the non-signing inventor on the declaration. The exhibits include copies of the following relevant correspondence: (a) a letter mailed to the non-signing inventor's attorney requesting his signature on the declaration and separate "Deed of Assignment" document; (b) a response from the inventor's attorney setting forth an objection to the language in the Deed of Assignment and stating that, once this language was corrected, the inventor would execute the Deed and the USA Power of Attorney (i.e., the declaration); (c) a responsive letter to the inventor's attorney discussing the Deed of Assignment (but not the declaration); (d) a letter from the inventor's attorney stating that the comments regarding the Deed of Assignment had been forwarded to the inventor; (e) a letter to the inventor's attorney, dated 29 May 2007, requesting the inventor's signature on the declaration and on a general assignment; this letter states that it included a copy of the complete application. No response to this final letter had been received at the time the present petition was filed.

The materials filed herein are not sufficient to confirm that the non-signing inventor has refused to sign the declaration in the present application. While the inventor has not provided the requested declaration, the present record does not include a request for the inventor to execute the declaration which is not combined with a request to execute the disputed Assignment document (the document which the inventor has expressly refused to sign). Petitioner must provide a proper showing confirming that the inventor has refused such a request before it can be concluded that the inventor has refused to execute the declaration herein; evidence should also be provided regarding any response that has been received from the inventor or his attorney with respect to the 29 May 2007 letter. Based on the above, on the present record, item (2) is not satisfied.

Regarding item (3), the petition includes an express statement of the last known addresses of the non-signing inventor. Item (3) is satisfied.

Regarding item (4), the petition includes a declaration executed on behalf of the non-signing inventor by a representative of the 37 CFR 1.47(b) applicant, Eliminator Holdings Ltd ("Eliminator"). Item (4) is therefore satisfied.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner here asserts that it has the required proprietary interest based on an "Agreement" between Vergence Holdings Limited ("Vergence") and the inventor (Vergence is the former name of 37 CFR 1.47(b) applicant Eliminator), as well as a statement executed by the inventor in which he confirms that he has "disposed of my Intellectual Property for the Eliminator to Eliminator Holdings Limited (Previously known as Vergence Holdings Limited) and confirm that I have no further personal rights to the Eliminator Intellectual Property." However, on the present record, these materials cannot be interpreted as representing an assignment of the invention underlying the present application, or an agreement to assign such invention. Specifically, the materials do not refer to the underlying priority application (which was filed well before these materials were executed and therefore could have been listed, if the materials were intended to cover such application), nor is "the intellectual property rights in the Eliminator" referred to in such materials a specific enough description of the transferred property to permit the USPTO to conclude, on the present record, that the invention underlying the present application was assigned pursuant to such materials (See MPEP 409.03(f): 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).[1]

Absent an acceptable assignment or agreement to assign, petitioner must demonstrate a proprietary interest in the application obtained other than through direct assignment or an agreement to assign. The requirements for such a showing are also set forth in the MPEP:

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision

[1] Paragraph 12 of the statement of Sandra Wilcocks asserts that "it would have been understood by all parties at the date of execution of this agreement that the Eliminator Intellectual property referred to" included the patent portfolio including the present application. However, this unsupported statement from a non-party to the agreement is insufficient to support a conclusion that the agreement provided encompasses the present application.

(if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner here has not provided a legal memorandum demonstrating that 37 CFR 1.47(b) applicant Eliminator has a proprietary interest in the invention based on applicable law.

Based on the above, item (5) is not considered satisfied on the present record.

Regarding item (6), the petition does not include the required statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is 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), (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).

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
MASON, Rex, Allan
U.S. Application No.: 10/575,960
PCT No.: PCT/NZ2004/000249
International Filing Date: 12 October 2004
Priority Date: 13 October 2003
Attorney's Docket No.: JAMES117.002APC
For: AN IMPROVED FLUID TREATMENT SYSTEM

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

In a decision mailed by this Office on 31 August 2007, applicant's petition under 37 CFR 1.47(b) for acceptance of the application without the signature of sole inventor Rex Allen MASON was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 30 November 2007, applicant filed a response to the 31 August 2007 decision (with required one-month extension fee); the response is treated herein as a renewed petition.

Applicant's 30 November 2007 submission includes a declaration executed by the previously non-signing inventor Rex Allen MASON. Because the inventor has been located and is not refusing to execute the application, the petition under 37 CFR 1.47(b) requesting acceptance of the declaration without the signature of Rex Allen MASON is **DISMISSED AS MOOT**.

A review of the declaration filed on 31 August 2007 reveals, however, that this declaration is not acceptable as submitted. Specifically, the declaration includes an alteration to the inventor's residence city and post office address that has not been initialed and dated by the signing inventor. As set forth in section 605.04(a) of the MPEP: "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." Therefore, a newly executed declaration is required here.

The submission of the executed but non-compliant declaration is considered a defective response to the previous decision.

Applicant is required to submit an acceptable declaration executed by inventor Rex Allen MASON that satisfies the requirements of 37 CFR 1.497 within **ONE (1) MONTH** from the mail date of this decision or within the time remaining in the response period set forth in the previous decision mailed 31 August 2007, whichever is the longer. Extensions of the one-month time limit above may **not** be granted under 37 CFR 1.136(a); however, the period for response set forth in the previous decision mailed 31 August 2007 may be extended under 37 CFR 1.136(a).

Failure to file a proper and timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P.O. BOX 458
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

In re Application of :
Lital Alfonta, et. al. :
Application No. 10/575,991 : DECISION ON PETITION
Filed: April 13, 2006 :
Attorney Docket No. 54000711US :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed October 19, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

This application was purportedly held abandoned for failure to file a reply to the Non-final Office action mailed March 26, 2007. A Notice of Abandonment was mailed on October 9, 2007.

Petitioner states that a reply was timely received by the USPTO on September 28, 2007 via a Certificate of Mailing dated September 26, 2007.

A review of the record shows that a non-final Office action was mailed on March 26, 2007, to which petitioner timely responded to the Office action by submitting an amendment, and $1,020 for a three months extension of time on September 28, 2007[1]. Therefore, the petition is **granted**.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

This application is being referred to Technology Center Art Unit 1656,for appropriate action in the normal course of business on the reply received on September 28, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] It is noted that the amendment and three months extension of time filed on September 28, 2007,contained a Certificate of Mailing under 37 CFR 1.8 dated September 26, 2007.

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The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Robert E. Hefner JR.	: DECISION ON REQUEST FOR
Patent Number	: 7585928	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,992	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **442** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Robert E. Hefner JR.	: DECISION ON REQUEST FOR
Patent Number	: 7626059	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/575,993	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **641** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 FEB 2007

Matthew K. Ryan
c/o Frommer Lawrence & Huag
745 Fifth Avenue
New York, NY 10151

In re Application of	:	
AL-SULAIM et al.	:	
U.S. Application No.: 10/576,002	:	
PCT No.: PCT/EP03/11550	:	DECISION ON PETITION
Int. Filing Date: 17 October 2003	:	
Priority Date: None	:	
Attorney Docket No.: 4000042024	:	
For: METHOD FOR OPERATING AN OUTPUT DEVICE	:	

This decision is issued in response to applicants' "Request for Refund" filed on 12 December 2006.

BACKGROUND

On 17 April 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.

In response to the Notification of Missing Requirements dated 19 October 2006, applicants submitted a declaration/power of attorney and a request for refund under 37 CFR 1.28(a). The submission was dated 12 December 2006.

DISCUSSION

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 12 December 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 not made within three months of the payment of the large entity fees on 17 April 2006. Accordingly, petitioner is not entitled to a refund of a portion of the large entity fees paid upon filing the present application.

It is noted that petitioner is entitled to one-half of the surcharge for filing an oath or declaration later than 30 months from the priority date

CONCLUSION

The request for refund under 1.28(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request for Refund." No petition fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

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

15 MAY 2006

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Alexandria, VA 22313-1450
www.uspto.gov

LARSON AND LARSON
11199 69TH Street North
Largo, FL 33773

In re Application of :
SCZAKIEL *et al* :
U.S. Application No.: 10/576,005 :
Filing Date: March 28, 2006 :
Attorney Docket No.: 195.66 :
For: METHOD FOR EARLY DETECTION AND MONITORING DISEASES BY ANALYSIS OF CELL-SURFACE-BOUND NUCLEIC ACIDS :

DECISION ON PETITION FOR REVIVAL UNDER 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" filed on March 28, 2006. Applicants' petition is hereby **GRANTED** as to the present U.S. national application as follows:

International application PCT/EP2004/009218 became abandoned as to the United States of America for failure to pay the basic national fee by January 18, 2006. The filing of the above-captioned continuation-in-part application under 35 U.S.C. 111(a) on March 28, 2006 is accepted as an appropriate response under 37 CFR 1.137(b). The $1500.00 petition fee has been paid. Applicants' statement regarding the delay satisfies the requirement of 37 CFR 1.137(b)(3). Thus, all requirements of 37 CFR 1.137(b) are satisfied.

International application PCT/EP2004/009218 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuation-in-part application number 10/576,005.

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of March 28, 2006.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

ASSIGNMENT

THIS ASSIGNMENT effective the 17th day of October 2003 between **PAUL ROSS**, of Greaigue., Kilwarth., Co. Cork Ireland (hereinafter called "the Inventor") of the first part,

TEAGASC, The Agriculture and Food Development Authority, a Statutory Body Corporate under the Agriculture (Research, Training and Advice) Act, 1998, of 19 Sandymount Avenue, Dublin 4, Ireland of the second part and **UNIVERSITY COLLEGE, CORK – NATIONAL UNIVERSITY OF IRELAND**, a body corporate, incorporated by Royal Charter, of College Road, Cork, Ireland, of the fourth part

WHEREAS the Inventor claims to be the true and first inventor jointly with, William Meaney, Stephen Hallahan and Colin Hill of an invention entitled "USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF INFECTION" and which invention was made by the Inventor out of and in the course of his employment with Teagasc AND WHEREAS the inventor holds the invention and all Patent and other rights and powers obtainable and exercisable in respect thereof in trust for Teagasc AND WHEREAS Teagasc has directed the Inventor to assign to Teagasc and UCC the invention and all rights and interests in the same and all rights and powers to make applications for patents in their own name, or in the name of their nominee, in Ireland and in any other country of the world in respect of the invention, together with all rights and benefits arising therefrom under the International Convention for the Protection of Industrial Property NOW THIS ASSIGNMENT WITNESSETH that in consideration of the sum of € 10 (ten euro) paid by Teagasc to the Inventor (the receipt whereof is hereby acknowledged) and other good and valuable consideration

1. The Inventor hereby assigns to Teagasc and UCC absolutely the invention, any improvements therein or modifications thereof, and any know-how relating thereto together with all rights and interests in the same and all rights and powers to make application for patents in the name of Teagasc and UCC, or in the name of their nominee, in Ireland and in any

other country of the world in respect of the invention or improvements therein or modifications thereof, together with all rights and benefits arising therefrom under the International Convention for the Protection of Industrial Property.

2. The Inventor hereby covenants with Teagasc and UCC as follows:

(i) The he will (so far as necessary) permit and enable Teagasc and UCC to apply for and will take all reasonable steps to assist Teagasc and UCC or their nominee in obtaining the grant of Patent or like protection in respect of the invention hereinbefore assigned in any territory as may be required by Teagasc and UCC.

(ii) That he will at the request and cost of Teagasc and UCC execute and do all such documents acts and things as may be necessary for the purpose of sub-paragraph (i) hereof and for vesting any relevant inventions, applications for Patent, know-how, copyright or design in Teagasc and UCC or its nominee absolutely.

3. The Inventor hereby irrevocable appoints Teagasc and UCC as his attorney in his name to execute and do any document act or thing which may be necessary to comply with the provisions of Clause 2 hereof.

AND IT IS HEREBY CERTIFIED that this instrument is a conveyance or transfer on any occasion, not being a sale or mortgage.

IN WITNESS WHEREOF this Assignment has been executed the day and year first herein written.

SIGNED, SEALED AND DELIVERED
by **PAUL ROSS,**

Paul Ross in the presence of

Witness

Witness

Executed on behalf of **TEAGASC**

Capacity Witness

Executed on behalf of **UNIVERSITY COLLEGE, CORK – NATIONAL UNIVERSITY OF IRELAND**

Capacity Witness

assn0909

Declaration

I, Christina Gates, Managing Partner of Tomkins & Company, European Patent Attorneys, make this Declaration.

I am the Patent Attorney responsible for preparing and drafting Irish Patent Application No. 2003/0773 entitled "Use of Probiotic Bacteria in the Treatment of Infection". This is the priority application on which U.S. Patent Application Serial No. 10/576,010, which is the national stage of PCT/ IE2004/000143.

The invention arises out of collaborative research conducted between Teagasc, the Agricultural & Food Development Authority, University College Cork, and a company, Cross VetPharm Limited. At a meeting between representatives of these parties, inventorship of the invention was determined, and a verbal agreement made for assignment of rights between the various parties.

Following that meeting I sent documentation to Cross VetPharm Limited for the attention of Mr. Stephen Hallahan to sign an Assignment document and at the same time sent other documents to his employers. The signed Assignment document was never returned to me, despite a number of reminders.

Subsequently it was decided to file the PCT application and ultimately enter the national stage in the U.S.. In connection with the U.S. application I sent by registered post return receipt requested to Mr. Stephen Hallahan, at his last known business address, a copy of the specification, claims, abstract and figures which had been filed in connection with that U.S. application. His home address is not known to me. I also enclosed a Combined Declaration and Power of Attorney, a general Assignment document, and an Assignment document specific for the U.S., and requested that he sign those documents. The letter, a copy of which is enclosed, was sent by registered post on the 19th of June, 2007. Mr. Hallahan was asked to return the signed documentation to me within twenty-one days.

I have not received a response from Mr. Stephen Hallahan. I attach as Annex 1 an extract of the List of Registered Postal Packages of the Irish Postal Service, An Post, showing that package RR 4578 4601 0IE was sent to Mr. Stephen Hallahan on 19th June 2007. The attached Annex 2 is an extract from the Delivery Record Card of An Post, showing that package RR 4578 4601 0IE was signed for by P_Lawlor at "Cross Vet" on 20th June 2007.

Mr. Hallahan was advised that failure to sign and return the Declaration by the deadline would be construed as a definitive refusal to join in the application papers. At this stage I therefore assume that Mr. Hallahan has now refused to join in the application papers.

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 wilful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardise the validity of the application or any patent issued thereon.

Signed: _____

Christina Gates, Ph.D.
Managing Partner
Tomkins & Co.

Dated: 27. July 07

TOMKINS

EUROPEAN PATENT ATTORNEYS
COMMUNITY TRADE MARK ATTORNEYS

Telephone +353 1 660 5033
Telephone +353 1 202 6700
www.tomkins.com

Tomkins & Co
5 Dartmouth Road, Dublin 6
Ireland

Also at Munich

Fax +353 1 660 6920 (Patents)
Fax +353 1 668 1387 (Trade Marks)
post@tomkins.com

Stephen Hallahan
c/o Cross VetPharm Group Limited
Broomhill Road
Tallaght
Dublin 24

By Registered Post

Your reference	Our reference	Date
	PP060US/MCG/ER	19 June 2007

Dear Sir,

Re: United States of America Patent Application No. 10/576,010 of Teagasc - National Dairy Products Research Centre

We enclose herewith a copy of the specification, claims, abstract and figures which were filed in connection with the above U.S. application. We also enclose a Declaration, a general Assignment document and an Assignment document specific for the U.S., all of which should be signed by yourself as inventor. We would be grateful if you would sign the enclosed Declaration and return it to me within 21 days. Failure to sign and return the Declaration by that deadline will be construed as a definitive refusal to join in the application papers.

We look forward to hearing from you.

Yours faithfully,

Christina Gates, Ph.D.
Tomkins & Co.

Michael Kiernan BL Dip Eur Law MITMA** · Michael Shortt BL Dip Eur Law** · Christina Gates PhD** · Simon Gray DipLS BBS MITMA** · Cathal Lane BSc(Hons)**

Seamus Doherty DipLS** · Sinéad Dunne MSc* · Olivia Catesby BSc(Hons)** · Michael Lucey BE(Hons) EPA
Orlaith Reedy BE(Hons)* · Aoife O'Neill BE(Hons) CPA* · Stéphane Ambrosini BA(Hons)*
Consultants: Andrew Parkes MA FITMA** · Peter Shortt BCL Dip Eur Law** · Michael Walsh BE M Eng Sc C Eng** · Gerald Nolan*
Financial Controller: David Gardiner BBS FCA · *European Patent Attorney/Chartered Patent Attorney *RTMA *Community Trade Mark Attorney

List of Registered
Postal Packets

POST

	Customer Reference	Name	Address	Registered Fee	
1	CUSTOMER REFERENCE RR 4578 4601 0IE	Stephen Hallahan	Cross Vetpharm Group Ltd Broomhill Road, Tallaght Dublin 24	6.50	6.50
2					
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POST SRÁID BHAOIDH UACHT BÁC 4 19.6.07

Date stamp
of receiving office

Sender's name

Number of packets received

Signature of receiving officer

C 1027 (SMCC 1309)

Batch Number : 00176342

PP: 01025783 IE.

Delivery date: D D / M M / Y Y 2 0 / 6 / 7	This electronic form must be completed carefully	POST
Office: 24	Delivery Status - if undelivered indicate with appropriate number:	Delivery Record Card
Route: Boxholders	2. No answer 5. Not known 3. Refusal 6. Incomplete Address 4. Gone away 7. Other (please state)	

IMPORTANT: Barcode labels must ONLY be placed within the boxes provided.

1	RR 4999 3488 5IE	Signature: Rosen Clarke Block Capitals: Company Name: ABB	Delivery Status Time
2	RL 0613 8289 5 IE	Signature: Block Capitals: Company Name: apesc.	Delivery Status Time
3	RL 0578 0973 6 IE	Signature: Block Capitals: Company Name: Spicers	Delivery Status Time
4	RL 0314 9410 2 IE	Signature: Block Capitals: Company Name: AIB	Delivery Status Time

22 OCT 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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

In re Application of	
ROSS, Paul et al.	
Application No.: 10/576,010	DECISION
PCT No.: PCT/IE2004/000143	
Int. Filing Date: 15 October 2004	ON PETITION UNDER
Priority Date: 17 October 2003	
Docket No.: 9008-1004	37 CFR 1.47(a)
For: USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF INFECTION	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 06 August 2007.

BACKGROUND

On 15 October 2004, applicants filed international application no. PCT/IE2004/000143, claiming a priority date of 17 October 2003. A copy of the international application was transmitted to the Office by the International Bureau on 21 April 2005. The deadline for payment of the basic national fee in the United States was 17 April 2006.

On 17 April 2006, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 05 January 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 06 August 2007, applicants filed this petition under 37 CFR 1.47(a) with an authorization to charge the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) have been met. (1) The petition fee of $200 has been paid. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 1.47(a).

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). The papers are generally sent to the nonsigning inventor's last known

residential address, but in any event, they have to reach the inventor to establish refusal. See MPEP 605.03 and 409.03(e). To the extent that applicant believes another address is best for reaching the inventor, the papers can be sent there too. Here, applicants merely state that they do not know a home address for the non-signing inventor. They detail no efforts to locate a current residential address for the inventor. Applicants do not state that the business address is current and do not indicate that they have verified that the address is current. Finally, the application papers were signed for by someone other than the inventor. Applicants have not demonstrated that the inventor was presented with a complete copy of the application papers.

Item (3) has not been satisfied. As indicated in MPEP 605.03, applicant must state the last known residential address for the inventor. Additional addresses for the inventor are appreciated, but the last known residential address is required.

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 electronically or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

27 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

In re Application of	:	
ROSS, Paul et al.	:	
Application No.: 10/576,010	:	DECISION
PCT No.: PCT/IE2004/000143	:	
Int. Filing Date: 15 October 2004	:	ON PETITION UNDER
Priority Date: 17 October 2003	:	
Docket No.: 9008-1004	:	37 CFR 1.47(a)
For: USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF INFECTION	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 20 March 2008.

BACKGROUND

On 22 October 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 20 March 2008, applicants filed this renewed petition under 37 CFR 1.47(a), accompanied by the fee for a 3 month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) were previously satisfied. Items (2) and (3) have now been satisfied. The letter from Mr. Paul Brady indicates that the application package and declaration sent to Mr. Hallahan's employer was forwarded to Mr. Hallahan. Applicants state the last known residential mailing address of Stephen Hallahan as Cois Abhann, Calbridge, County Kildare, Ireland.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official

Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **06 August 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

27 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stephen Hallahan
Cois Abhann,
Calbridge, County Kildare
Ireland

In re Application of
ROSS, Paul et al.
Application No.: 10/576,010
PCT No.: PCT/IE2004/000143
Int. Filing Date: 15 October 2004
Priority Date: 17 October 2003
Docket No.: 9008-1004
For: USE OF PROBIOTIC BACTERIA IN THE TREATMENT OF INFECTION

Dear Mr. Hallahan:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

cc: Stephen Hallahan
c/o Cross VetPharm Group Ltd.
Broomhill Road
Tallaght
Dublin 24
Ireland

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Manfred Geier	: DECISION ON REQUEST FOR
Patent Number	: 7651078	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,091	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LONDON ENG WC2B6HP GB UNITED KINGDOM

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OFFICE OF PETITIONS

In re Patent No. 7,569,602 :
Issued: August 4, 2009 :
Application No. 10/576,095 : PATENT TERM ADJUSTMENT
Filed: April 14, 2006 :
Dkt. No.: BJS-620-432 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)," filed September 11, 2009.

Patentees request correction of the patent term adjustment from 462 days to not less than 574 days. Patentees request this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,569,602 on August 4, 2009. The patent issued with a patent term adjustment of 462 days. Patentee argues that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent is entitled to an adjustment of not less than 574 days (462 days pursuant to 35 USC 154(b)(1)(A) *plus* 112 days pursuant to 35 USC 154(b)(1)(B)).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on August 4, 2009, the application was pending three years and 112 days after national stage commenced under 35 U.S.C. 371(b) or (f) in an international application (April 15, 2009 to August 4, 2009). The Office agrees that certain action was not taken within the specified time frame, and thus, the application was pending 14 months and 462 days prior to the mailing of the restriction requirement on September 18, 2008. At issue is whether patentees should accrue 112 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 462 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 112 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 462 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, April 14, 2006, and ending on the date that the patent issued, August 4, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), the application was pending 14 months and 462 days prior to the issuance of the restriction requirement on September 18, 2008. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 112 days prior to the issuance of the patent on August 4, 2009.

The 112 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 462 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 112 days and the 462 days is neither permitted nor warranted given that 462 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 112 days of Office delay under the three-year pendency provision in conjunction with the 462 days of examination delay, the Office properly entered 462 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: B SADOFF
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th
Arlington, VA 22203

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OFFICE OF PETITIONS

Applicant: Fankhauser et al.
Appl. No.: 10/576,104
International Filing Date: October 21, 2004
Title: ACTIVE PROTECTION CIRCUIT ARRANGEMENT
Attorney Docket No.: 14603-018US1 / P2003,0722 US N
Pub. No.: US 2007/0146950-A1
Pub. Date: June 28, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 27, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the first inventor's name is misspelled on the front page of the patent application publication, as the first inventor's name should be "Bernd Fankhauser" not "Bernd Frankhauser."

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 misspelling of the first inventor's name. 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.

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 in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

22 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Morrison & Foerster, LLP
12531 High Bluff Drive, Suite 100
San Diego, CA 92130

In re Application of
MORGAN et al.
U.S. Application No.: 10/576,122
PCT No.: PCT/US04/34913
Int. Filing Date: 20 October 2004
Priority Date: 21 October 2003
Attorney Docket No.: 564462012800
For: METHODS FOR MAKING SIMVASTATIN AND INTERMEDIATES

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a) to File on Behalf of a Missing Inventor" filed 23 May 2007 to accept the application without the signature of joint-inventor, Zilin Huang. The required petition fee of $200.00 has been submitted.

BACKGROUND

On 20 October 2004, applicants filed international application PCT/US04/34913 which claimed a priority date of 21 October 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 April 2006.

On 18 April 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 23 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. 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 23 May 2007, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

As to item (2), petitioner states that Zilin Huang cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Zilin Huang. The Declaration of Linda Sabido states that "on 02 April 2007, 16 April 2007, and 26 April 2007, she sent a Rule 63 Declaration to Zilin Huang, at his last known address, via first class mail and registered mail (Fedex). The letters were returned to sender." However, the multiple mailings to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Additionally, Ms. Sabido states that she attempted to contact Zilin Huang by telephone but the telephone numbers were disconnected. However, the declaration fails to include evidence that alternative means were employed, such as a search of telephone and/or Internet directories, to locate Zilin Huang. As stated above, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts.

As to Item (4), the declaration is not in compliance with 37 CFR 1.497(a)-(b). Petitioner has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and

identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets (see page 4). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

For the reasons stated above, it would not be appropriate to accept the application without the signature of Zilin Huang 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
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

30 AUG 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morrison & Foerster, LLP
12531 High Bluff Drive, Suite 100
San Diego, CA 92130

In re Application of
MORGAN et al.
U.S. Application No.: 10/576,122
PCT No.: PCT/US04/34913
Int. Filing Date: 20 October 2004
Priority Date: 21 October 2003
Attorney Docket No.: 564462012800
For: METHODS FOR MAKING SIMVASTATIN AND INTERMEDIATES

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a) to File on Behalf of a Missing Inventor" filed 22 August 2007. In a decision dated 22 June 2007, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Zilin Huang, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 22 August 2007 with the present communication was executed by the named inventor, the previous non-signing inventor, Zilin Huang. The declaration filed 22 August 2007 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

The application has an international filing date of 20 October 2004 under 35 U.S.C. 363 and a date of 22 August 2007 under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

30 MAY 2006

WINSTEAD SECHREST & MINICK P.C.
P.O. BOX 50784
DALLAS TX 75201

In re Application of:	:	
BARRERA, Enrique, V., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/576,134	:	REVIVAL OF ABANDONED
PCT No.: PCT/US04/24338	:	APPLICATION UNDER
International Filing Date: 28 July 2004	:	37 CFR 1.137(b)
Priority Date: 28 July 2003	:	
Attorney's Docket No.: 11321-PO74WOUS	:	
For: SIDEWALL FUNCTIONALIZATION OF CARBON NANOTUBES WITH ORGANOSILANES FOR POLYMER COMPOSITES	:	

The petition for revival under 37 CFR 1.137(b) filed 17 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

The 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 small entity petition fee,[1] 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 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

[1] Applicant submitted $250 as the small entity petition fee, along with an authorization to charge Deposit Account No. 23-2426 for any required fees. The correct small entity petition fee is $750. Thus, Deposit Account No. 23-2426 will be charged $500 to bring applicants' petition fee payment to the required total of $750.

PTO/SB/17
MAR 02 2009
PATENT & TRADEMARK OFFICE

03/03/09

Copy

Certificate of Express or First-Class Mailing

I hereby certify that I have deposited this correspondence with the US Postal Service as first-class or, if a mailing-label number is given below, as express mail addressed to Comm. of Patents, Box 1450, Alexandria, VA 22313-1450 on the below-given date.

MAR - 2 2009
Date

EM130045122
Express mail label number

Signature

23545

10/576,157

IN THE U.S. PATENT AND TRADEMARK OFFICE

Patent No.	7,468,091
Inventor	Karsten VIERECK et al
Issued	23 December 2008
For	METHOD FOR DEHUMIDIFYING AIR AND AIR DEHUMIDIFIER FOR OIL-INSULATED TRANSFORMERS, REACTANCE COILS AND STEP SWITCHES

Mail Stop PETITIONS
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Post Office Box 1450
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TRANSMITTAL LETTER

In the above-mentioned Letters Patent, the name of the Assignee is incorrect.

The correct spelling should be:

- - MASCHINENFABRIK REINHAUSEN GMBH
Regensburg (DE) - -

It is therefore respectfully requested that the Letters Patent be corrected, and a new Letters Patent be issued. This request is being filed without a fee, since the originally submitted papers were correct, as shown in the enclosed supporting document.

If this request is granted, please forward it to the Certificates of Correction Branch, for issuance of a Certificate of Correction.

Respectfully submitted,
KF Ross PC

By: Andrew Wilford, 26,597
Attorney for Applicant

2 February 2009
5683 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

pf
Encs: PTO SB/44 (Also PTO form 1050) Certificate of Correction
PTOL-85 Part B - Fee(s)Transmittal.

PTO/SB/44
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,468,091
DATED : 23 December 2008
INVENTORS: Karsten VIERECK et al

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

The correct spelling of the name of the Assignee is:

- - Maschinenfabrik Reinhausen GmbH - -

(Maschinenfabrik . . .)

Andrew Wilford, 26,597

2 February 2009

Mailing address of sender:

The Firm of Karl F. Ross P.C.
Customer Number 535
5683 Riverdale Avenue Box 900
Riverdale (Bronx), NY 10471-0900

Patent No. 7,468,091

PART B - FEE(S) TRANSMITTAL

MAR 0 2 2009

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

535 7590 08/20/2008

K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX, NY 10471-0900

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,157	04/17/2006	Karsten Viereck	23545	2199

TITLE OF INVENTION: METHOD FOR DEHUMIDIFYING AIR AND AIR DEHUMIDIFIER FOR OIL-INSULATED TRANSFORMERS, REACTANCE COILS AND STEP SWITCHES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	11/20/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
LAWRENCE JR, FRANK M	1797	095-010000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 Andrew Wilford
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: MASCHINENFABRIK REINHAUSEN GMBH
(B) RESIDENCE: (CITY and STATE OR COUNTRY): REGENSBURG, GERMANY

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☐ A check is enclosed.
☒ Payment by ~~credit card. Form PTO-2038 is attached.~~ EFS
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature / Andrew Wilford / Date 18 November 2008

Typed or printed name Andrew Wilford Registration No. 26,597

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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23629

Ser. No. 11/430,267

Bescheinigung	Certificate	Attestation
Die angehefteten Unterlagen stimmen mit der ursprünglich eingereichten Fassung der auf dem nächsten Blatt bezeichneten europäischen Patentanmeldung überein.	The attached documents are exact copies of the European patent application described on the following page, as originally filed.	Les documents fixés à cette attestation sont conformes à la version initialement déposée de la demande de brevet européen spécifiée à la page suivante.

Patentanmeldung Nr.	Patent application No.	Demande de brevet n°
	06008625.3 / EP06008625	

The organization code and number of your priority application, to be used for filing abroad under the Paris Convention, is EP06008625

Der Präsident des Europäischen Patentamts;
Im Auftrag

For the President of the European Patent Office

Le President de l'Office européen des brevets
p.o.

R.C. van Dijk

Anmeldung Nr:
Application no.: 06008625.3
Demande no:

Anmeldetag:
Date of filing: 26.04.06
Date de dépôt:

Anmelder/Applicant(s)/Demandeur(s):

Reifenhäuser GmbH & Co. KG Maschinenfabrik
Spicher Strasse 46-48
53839 Troisdorf/DE

Bezeichnung der Erfindung/Title of the invention/Titre de l'invention:
(Falls die Bezeichnung der Erfindung nicht angegeben ist, siehe Beschreibung.
If no title is shown please refer to the description.
Si aucun titre n'est indiqué se referer à la description.)

Verfahren und Vorrichtung zur Herstellung eines Spinnvlieses

In anspruch genommene Priorität(en) / Priority(ies) claimed / Priorité(s) revendiquée(s)
Staat/Tag/Aktenzeichen / State/Date/File no. / Pays/Date/Numéro de dépôt:

EP / 25.05.05 / EPA 05011330

Internationale Patentklassifikation / International Patent Classification / Classification internationale de brevets:

D04H3/14

Am Anmeldetag benannte Vertragstaaten / Contracting states designated at date of filing / Etats contractants désignées lors du dépôt:

AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LI LT LU LV MC NL PL PT RO SE SI SK TR

andrejewski honke & sozien

Patentanwälte
European Patent and Trademark Attorneys*

Diplom-Ingenieur
Dr.-Ing. Rainer Albrecht*
Diplom-Physiker
Dr. Jörg Nunnenkamp*
Diplom-Chemiker
Dr. Michael Rohmann*
Diplom-Physiker
Dr. Andreas von dem Borne*
Diplom-Ingenieur
Dr.-Ing. Kay-Jochen Rinck

EPO - Munich
77
26. April 2006

Anwaltsakte
X 2 152/Go/Ro

D 45127 Essen, Theaterplatz 3
D 45002 Essen, P.O. Box 10 02 54
25. April 2006

Patentanmeldung

Reifenhäuser GmbH & Co. KG Maschinenfabrik
Spicher Straße 46-48

53839 Troisdorf

Verfahren und Vorrichtung zur Herstellung eines Spinnvlieses

EPO - Munich
77
26. April 2006

Beschreibung:

Die Erfindung betrifft ein Verfahren zur Herstellung eines Spinnvlieses aus Endlosfilamenten sowie eine Vorrichtung zur Durchführung dieses Verfahrens. – Es liegt im Rahmen der Erfindung, dass die Endlosfilamente aus einem thermoplastischen Kunststoff bestehen. Endlosfilamente unterscheiden sich aufgrund ihrer quasi endlosen Länge von Stapelfasern, die viel geringere Längen von beispielsweise 10 bis 60 mm aufweisen.

Aus der Praxis ist es bekannt, unter Verwendung von Stapelfasern voluminöse Vliese herzustellen, die als "High Loft-Vliese" bekannt sind. Hier werden die Vliesablage und die Verfestigung des Vlieses in getrennten Anlageneinheiten durchgeführt. Die Vliesablage erfolgt hier mit einer Krempel. Diese Vliese werden u. a. in der Hygieneindustrie und in der Filtertechnik eingesetzt. - Es wurde versucht, vergleichbar dicke bzw. voluminöse Vliese aus Endlosfilamenten herzustellen. Dabei wurden auch Mehrkomponentenfilamente mit natürlicher Kräuselung eingesetzt. Die Aktivierung der Kräuselung führte dabei aber häufig zu Schrumpfkräften, die ein Aufreißen des Spinnvlieses zur Folge hatten. Dadurch verliert das Spinnvlies die erforderliche Homogenität und somit entstehen wenig akzeptable Produkte.

Demgegenüber liegt der Erfindung das technische Problem zugrunde, ein Verfahren zur Herstellung eines Spinnvlieses aus Endlosfilamenten anzugeben, mit dem nachteilhafte Schrumpfkräfte kontrolliert bzw. minimiert werden können und mit dem in vorteilhafter Weise dicke bzw. voluminöse Spinnvliese hergestellt werden können. Der Erfindung liegt weiterhin das technische Problem zugrunde, eine entsprechende Vorrichtung anzugeben.

Zur Lösung des technischen Problems lehrt die Erfindung ein Verfahren zur Herstellung eines voluminösen Spinnvlieses mit bzw. aus Endlosfilamenten mit natürlicher Kräuselung,

wobei die Filamente durch eine Verstreckeinheit und im Anschluss daran durch einen Diffusor geführt werden,

wobei die Filamente daraufhin auf einer Ablageeinrichtung als gekräuselte Filamente abgelegt werden

und wobei diese abgelegten gekräuselten Filamente mit dieser Ablageeinrichtung einer Verfestigungseinrichtung zugeführt werden, in der die Filamente mit einem Fluid verfestigt werden. Es liegt im Rahmen der Erfindung, dass die Verfestigung als thermische Verfestigung mit einem heißen Fluid durchgeführt wird. Vorzugsweise werden zusätzlich zu den Filamenten mit natürlicher Kräuselung auch nicht-kräuselnde ersponnen und auf der Ablageeinrichtung abgelegt.

Erfindungsgemäß kann ein einlagiges oder auch ein mehrlagiges Spinnvlies hergestellt werden. Bei mehrlagigen Spinnvliesen können die einzelnen Lagen gebildet werden aus Filamenten mit natürlicher Kräuselung oder aus nicht-kräuselnden Filamenten oder aus Mischungen von Filamenten mit natürlicher Kräuselung mit nicht-kräuselnden Filamenten. Zweckmäßigerweise weist das erfindungsgemäße Spinnvlies zumindest eine Lage (Schicht) auf, die ausschließlich aus Filamenten mit natürlicher Kräuselung oder aus einer Mischung von Filamenten mit natürlicher Kräuselung mit nicht-kräuselnden Filamenten besteht. Das erfindungsgemäße Spinnvlies kann natürlich auch als einlagiges Spinnvlies hergestellt werden, das vollständig aus Filamenten mit natürlicher Kräuselung besteht.

Es liegt im Rahmen der Erfindung, dass die Endlosfilamente aus einem Spinnkopf bzw. aus einer Spinnerette ersponnen werden. Die ersponnenen Endlosfilamente werden dann zweckmäßigerweise abgekühlt und verstreckt, wobei die Abkühlung und Verstreckung insbesondere in einer kombinierten Abkühl- und Verstreckeinheit stattfindet. Mit dem Begriff Verstreckeinheit ist auch eine kombinierte Abkühl- und Verstreckeinheit gemeint. Bevor die Ablage der Filamente auf der Ablageeinrichtung erfolgt, werden sie erfindungsgemäß durch einen Diffusor geführt. Der Diffusor ist dann zwischen Verstreckeinheit und Ablageeinrichtung bzw. zwischen Abkühl- und Verstreckeinheit und Ablageeinrichtung angeordnet. Dem Diffusor kommt im Rahmen der Erfindung besondere Bedeutung zu. Die ersponnenen Endlosfilamente werden insbesondere nach dem Reicofil III-Verfahren (DE-PS 196 20 379) oder nach dem Reicofil IV-Verfahren (EP-OS 1 340 843) behandelt.

Dass die Filamente auf der Ablageeinrichtung abgelegt werden und mit dieser Ablageeinrichtung der Verfestigungseinrichtung zugeführt werden, meint im Rahmen der Erfindung insbesondere, dass die mechanisch relativ schwache und wenig belastbare Filamentablage so lange von dieser Ablageeinrichtung geführt bzw. getragen wird, bis durch die Heißfluidverfestigung ein belastbares Vlies entstanden ist. Es liegt im Rahmen der Erfindung, dass die abgelegten Filamente mit der Ablageeinrichtung unmittelbar der Verfestigungseinrichtung zugeführt werden, ohne dass eine vorherige Verfestigung, beispielsweise mit einem Kalander, erfolgt. Vorzugsweise sind zwischen dem Ablagebereich der Filamente auf der Ablageeinrichtung und der Verfestigungseinrichtung keine weiteren Einrichtungen bzw. Einheiten zur mechanischen und/oder thermischen Behandlung der Filamentablage zwischengeschaltet. Die Filamentablage wird dabei also zwischen ihrem Ablagebereich und der Verfestigungseinrichtung lediglich mit der Ablageeinrichtung weitertransportiert.

Thermische Verfestigung mit einem heißen Fluid meint im Rahmen des erfindungsgemäßen Verfahrens insbesondere die Verfestigung mit Hilfe eines gasförmigen heißen Fluids, insbesondere die thermische Verfestigung mit Hilfe von heißer Luft. Dabei strömt das heiße Fluid zweckmäßigerweise quer bzw. senkrecht zur Oberfläche der Filamentablage auf die Filamentablage. Zweckmäßigerweise findet in der Verfestigungseinrichtung eine flächige Beaufschlagung der Filamentablage mit dem heißen Fluid statt. Insoweit unterscheidet sich diese bevorzugte erfindungsgemäße Behandlung von der Beaufschlagung der Filamentablage mit einem fokussierten Luftstrom, insbesondere mittels eines Heißluftmessers ("hot-air-knife"). Es liegt im Rahmen der Erfindung, dass die Temperatur des heißen Fluids für die thermische Verfestigung mindestens oberhalb des niedrigsten Erweichungspunktes aller in der Filamentablage vorhandenen Filamentrohstoffe liegt. Auf diese Weise kann die Filamentablage effektiv stabilisiert werden. Es liegt weiterhin im Rahmen der Erfindung, dass die Filamentablage bzw. das Spinnvlies von dem heißen Fluid durchströmt wird.

Filamente mit natürlicher Kräuselung meint im Rahmen der Erfindung insbesondere Filamente, die nach der Ablage auf der Ablageeinrichtung im entspannten Zustand Krümmungsradien unter 5 mm aufweisen. Die Filamente weisen dabei über den größten Teil ihrer Länge entsprechende Kräuselungen mit den vorgenannten Krümmungsradien auf. Dieser gekräuselte Zustand muss unmittelbar nach der Ablage, insbesondere nach dem Verstrecken und Ablegen der Filamente, d. h. also ohne weitere mechanische oder thermische Einflüsse auf die Filamente feststellbar sein. Nach sehr bevorzugter Ausführungsform der Erfindung sind die Filamente mit natürlicher Kräuselung Mehrkomponentenfilamente und vorzugsweise Mehrkomponentenfilamente mit Seite/Seite-Anordnung und/oder mit azentrischer Kern/Mantel-Anordnung. Werden unterschiedliche Rohstoffe nebeneinander in einem solchen Filament unterzogen, werden sie einer ähnlichen Abkühlung und Verstreckung beim

Spinnprozess unterworfen. Nach dem Unterziehen auf die End-Filamentgeschwindigkeit weisen beide Rohstoffe aber unterschiedliche Restspannungen auf. Nach dem Ende des Unterziehens und nachdem die das Filament verstreckende Luftkraft nicht mehr existiert, finden jeweils unterschiedliche Relaxations- und Retardationsvorgänge (Schrumpf) in den verschiedenen Rohstoffen statt. Als Folge davon krümmt sich das Filament. Der Krümmungsradius und die Anzahl der Krümmungen pro Filamentlänge hängen von den Rohstoffen, dem Querschnitt des Filamentes und den Prozessbedingungen ab. Das Kräuseln der Filamente findet insbesondere vor der Ablage der Filamente im Luftstrom und insbesondere im Diffusor statt. Dass die Filamente auf eine Ablageeinrichtung als gekräuselte Filamente abgelegt werden, meint also insbesondere, dass zumindest ein Teil der natürlich kräuselnden Filamente bereits vor der Ablage eine Kräuselung entwickeln und zwar insbesondere nach der Verstreckeinheit bzw. im Diffusor. Diese Filamente können aber auch noch zwischen Diffusor und Ablageeinrichtung eine Kräuselung entwickeln. – Dass die Filamente auf eine Ablageeinrichtung als gekräuselte Filamente abgelegt werden, schließt nicht aus, dass die natürlich kräuselnden Filamente auch noch auf der Ablageeinrichtung eine Kräuselung entwickeln können. Auch können die Filamente bei der nachfolgenden thermischen Verfestigung eine Neigung zu weiterer bzw. zu zusätzlicher Kräuselung aufweisen. Eine Kräusel-Aktivierung kann Bestandteil der erfindungsgemäßen thermischen Verfestigung sein.

Nicht-kräuselnde Filamente meint im Rahmen der Erfindung Filamente, die gleichsam flach und mit Krümmungsradien größer als 5 mm auf der Ablageeinrichtung abgelegt werden. Nach besonders bevorzugter Ausführungsform der Erfindung sind die nicht-kräuselnden Filamente Monokomponentenfilamente und/oder Mehrkomponentenfilamente mit symmetrischer Kern/Mantel-Anordnung. Es liegt im Rahmen der Erfindung, dass es sich bei den Monokomponentenfilamenten um homogene Vollfilamente handelt.

Nach besonders bevorzugter Ausführungsform weist die Filamentablage bzw. das Spinnvlies zumindest eine Lage auf, die aus einer Mischung aus Filamenten mit natürlicher Kräuselung und nicht-kräuselnden Filamenten besteht. Zweckmäßigerweise wird dabei diese Filamentmischung aus einem einzigen Spinnkopf ersponnen und vorzugsweise anschließend gemeinsam abgekühlt und verstreckt.

Die auf der Ablageeinrichtung abgelegte Filamentablage kann auch aus zumindest einer Schicht (Lage) aus nicht-kräuselnden Filamenten bestehen und aus zumindest einer darauf aufgebrachten Schicht (Lage) aus Filamenten mit natürlicher Kräuselung. Dann werden zweckmäßigerweise zwei bzw. mehr Spinnköpfe hintereinander angeordnet. Eine Alternative dazu ist das Vorproduzieren zumindest einer der genannten Schichten (Lagen), die dann insbesondere von einer Rolle zulaufen kann.

Es liegt im Rahmen der Erfindung, dass die Filamentablage bzw. die abgelegte Lage eines Spinnvlieses mehr als 20 Gew.-%, vorzugsweise mehr als 30 Gew.-% und bevorzugt mehr als 40 Gew.-% Filamente mit natürlicher Kräuselung aufweist. Es liegt fernerhin im Rahmen der Erfindung, dass der Rest der Filamente dieser Filamentablage bzw. dieser Lage aus nicht-kräuselnden Filamenten besteht.

Es empfiehlt sich, dass die ersponnenen Filamente zunächst durch eine Kühleinrichtung und durch eine Verstreckeinheit bzw. durch eine kombinierte Kühl- und Verstreckeinheit geführt werden, daraufhin durch den Diffusor geführt und anschließend auf der Ablageeinrichtung abgelegt werden. In der Kühleinrichtung bzw. in der kombinierten Kühl- und Verstreckeinheit findet normalerweise eine Luftzufuhr bzw. eine Luftansaugung von Kühlluft statt. Am bzw. im Diffusor oder zwischen Diffusor und Verstreckeinheit ist zumindest ein

Umgebungslufteintrittsspalt vorgesehen. Nach ganz bevorzugter Ausführungsform der Erfindung ist das Aggregat aus Kühleinrichtung, Verstreckeinheit bzw. aus kombinierter Kühl- und Verstreckeinheit und Diffusor, abgesehen von der Luftzufuhr in der Kühleinrichtung bzw. in der kombinierten Kühl- und Verstreckeinheit und abgesehen von dem Lufteintritt über den zumindest einen Umgebungslufteintrittsspalt als geschlossenes System ausgebildet. Dann findet also ansonsten keine Luftzufuhr bzw. im Wesentlichen keine Luftzufuhr in das Aggregat statt. Das geschlossene System hat sich im Rahmen des erfindungsgemäßen Verfahrens und zur Lösung des erfindungsgemäßen technischen Problems besonders bewährt.

Es wurde bereits weiter oben darauf hingewiesen, dass dem Diffusor zur Lösung des erfindungsgemäßen technischen Problems besondere Bedeutung zukommt. Mit Hilfe des der Verstreckeinheit nachgeschalteten Diffusors kann in Kombination mit den übrigen erfindungsgemäßen Merkmalen eine effektive Kräuselung der natürlich kräuselnden Filamente vor ihrer Ablage erzielt werden. Auf diese Weise kann ein in vorteilhafter Weise dickes bzw. voluminöses Spinnvlies hergestellt werden.

Erfindungsgemäß wird die Filamentablage bzw. wird das Spinnvlies mit der Ablageeinrichtung durch die Verfestigungseinrichtung geführt. Mit anderen Worten wird das Spinnvlies mit der Ablageeinrichtung zu der Verfestigungseinrichtung bzw. durch die Verfestigungseinrichtung transportiert. Die Ablageeinrichtung weist dabei zumindest eine Ablageeinheit auf. Es liegt im Rahmen der Erfindung, dass es sich bei der Ablageeinheit um eine Fördereinheit bzw. um ein Förderband für die Filamentablage handelt. Nach besonders bevorzugter Ausführungsform des erfindungsgemäßen Verfahrens wird mit einer Ablageeinrichtung gearbeitet, die aus zumindest einer Ablageeinheit im Form eines gasdurchlässigen (luftdurchlässigen) Siebbandes besteht. Bei einem solchen Siebband handelt es sich insbesondere um ein über

Umlenkrollen geführtes Endlosband. Der Einsatz eines Siebbandes als Ablageeinheit bzw. der Einsatz von Siebbändern in der Ablageeinrichtung hat sich besonders bewährt.

Es liegt im Rahmen der Erfindung, dass das Spinnvlies in der Verfestigungseinrichtung mit dem heißen Fluid mit der Maßgabe beaufschlagt wird, dass das Spinnvlies gegen die Ablageeinrichtung, insbesondere gegen ein gasdurchlässiges Siebband der Ablageeinrichtung gedrückt wird. Wie oben bereits dargelegt, erfolgt zweckmäßigerweise eine Querbeaufschlagung der Spinnvliesoberfläche durch die Kräfte des heißen Fluids. Hierdurch wird effektives Anpressen des Spinnvlieses an die Ablageeinrichtung bzw. an das Siebband erreicht, wodurch unerwünschte Verschiebungen und Schrumpföffnungen im Spinnvlies vermieden werden können. Es liegt im Rahmen der Erfindung, dass das heiße Fluid das Spinnvlies und das gasdurchlässige Siebband durchströmt. Bei der thermischen Verfestigung auf der Ablageeinrichtung kann das Spinnvlies auch nacheinander aus entgegengesetzten Richtungen bezüglich seiner Oberseite und seiner Unterseite mit dem heißen Fluid beaufschlagt werden.

Nach einer bevorzugten Ausführungsform der Erfindung besteht die Ablageeinrichtung aus einer einzigen Ablageeinheit, insbesondere in Form eines gasdurchlässigen Siebbandes und das Spinnvlies wird auf dieser einzigen Ablageeinheit (Siebband) durch die Verfestigungseinrichtung befördert. D. h., dass gemäß dieser Ausführungsform die Filamentablage (Spinnvlies) unmittelbar und ohne Zwischenschaltung weiterer Anlagenkomponenten bzw. Ablagekomponenten mit der einzigen Ablageeinheit (Siebband) durch die Verfestigungseinrichtung befördert wird. Das Spinnvlies wird dabei zweckmäßigerweise durch eine Querbeaufschlagung des Fluids an die Ablageeinheit bzw. an das Siebband gepresst. Bei dieser Ausführungsform liegt das Spinnvlies auf der Oberseite der Ablageeinheit bzw. des Siebbandes auf und die

Beaufschlagung mit dem heißen Fluid erfolgt zweckmäßigerweise von oben. - Mit dem Begriff Siebband ist vorzugsweise ein herkömmliches Siebband gemeint, das üblicherweise bei der Spinnvliesherstellung als Ablageeinheit bzw. Ablageeinrichtung eingesetzt wird. Mit dem Begriff Siebband ist aber grundsätzlich auch jede gasdurchlässige Fördereinrichtung gemeint, mit der die Filamentablage bzw. das Spinnvlies transportiert werden kann und die von dem heißen Fluid durchströmt werden kann.

Eine andere bevorzugte Ausführungsform der Erfindung ist dadurch gekennzeichnet, dass die Ablageeinrichtung aus einer ersten Ablageeinheit, insbesondere in Form eines Siebbandes besteht, auf der die ersponnenen Filamente abgelegt werden und dass das Spinnvlies (Filamentablage) mit dieser ersten Ablageeinheit zu einer zweiten Ablageeinheit, insbesondere in Form eines Siebbandes, transportiert wird und mit dieser zweiten Ablageeinheit durch die Verfestigungseinrichtung transportiert wird. Nach sehr bevorzugter Ausführungsform der Erfindung befördert dabei die zweite Ablageeinheit das Spinnvlies mit einer gegenüber der ersten Ablageeinheit reduzierten Transportgeschwindigkeit. Gemäß einer Ausführungsform der Erfindung schließen erste und zweite Ablageeinheit unmittelbar aneinander an, ohne dass eine weitere Ablageeinheit bzw. Fördereinrichtung zwischengeschaltet ist. Bei dieser Ausführungsform wird das Spinnvlies also unmittelbar von der ersten Ablageeinheit an die zweite Ablageeinheit übergeben. Nach einer anderen Ausführungsform der Erfindung kann zwischen erster und zweiter Ablageeinheit aber auch eine dritte Ablageeinheit, insbesondere in Form eines Siebbandes, zwischengeschaltet sein, die das Spinnvlies ebenfalls befördert. Gemäß einer Ausführungsvariante wird das Spinnvlies an der Unterseite dieser dritten Ablageeinheit, insbesondere an der Unterseite eines dritten Siebbandes transportiert. Dabei wird das Spinnvlies zweckmäßigerweise mit Hilfe von Saugluft an der Unterseite der dritten Ablageeinheit gehalten. Es liegt bei dieser Ausführungsform im Rahmen der Erfindung, dass sich die Transportge-

schwindigkeit des Spinnvlieses von der ersten Ablageeinheit zur dritten Ablageeinheit reduziert und von der dritten Ablageeinheit zu der zweiten Ablageeinheit weiter reduziert.

Eine Ausführungsform der Erfindung ist dadurch gekennzeichnet, dass die Filamente auf der Oberseite einer ersten Ablageeinheit abgelegt werden und mit dieser ersten Ablageeinheit zu einer zweiten Ablageeinheit transportiert werden. Die Filamentablage wird dann von der ersten Ablageeinheit unmittelbar an die zweite Ablageeinheit übergeben und an der Unterseite der zweiten Ablageeinheit durch die Verfestigungseinrichtung transportiert. Auch bei dieser Ausführungsform der Erfindung bestehen erste Ablageeinheit und zweite Ablageeinheit vorzugsweise aus Siebbändern. Zweckmäßigerweise ist die Transportgeschwindigkeit der zweiten Ablageeinheit geringer als die Transportgeschwindigkeit der ersten Ablageeinheit.

Eine weitere Ausführungsform der Erfindung ist dadurch gekennzeichnet, dass die Filamente auf einer ersten Ablageeinheit, vorzugsweise auf einem ersten Siebband abgelegt werden und anschließend zwischen der ersten Ablageeinheit und einer zweiten Ablageeinheit, die vorzugsweise als zweites Siebband ausgebildet ist, durch die Verfestigungseinrichtung transportiert werden. Das Spinnvlies wird bei der thermischen Verfestigung hier zweckmäßigerweise zwischen einem unteren Siebband und einem oberen Siebband gehalten.

Es liegt im Rahmen der Erfindung, dass das in der Verfestigungseinrichtung thermisch verfestigte Spinnvlies anschließend einer Endverfestigung unterworfen wird. Bei dieser Endverfestigung kann es sich insbesondere um eine Wasserstrahlverfestigung des Spinnvlieses handeln.

Gegenstand der Erfindung ist weiterhin eine Vorrichtung zur Herstellung eines voluminösen Spinnvlieses, wobei zumindest eine Spinneinrichtung zur

Erzeugung von Filamenten mit natürlicher Kräuselung vorgesehen ist, wobei fernerhin eine Ablageeinrichtung zur Ablage der Filamente mit natürlicher Kräuselung vorhanden ist und wobei eine Verfestigungseinrichtung zur Verfestigung der Filamentablage (Spinnvlies) mit der Maßgabe angeordnet ist, dass die Filamentablage (Spinnvlies) mit der Ablageeinrichtung unmittelbar in die Verfestigungseinrichtung einführbar ist. Nach einer bevorzugten Ausführungsform der Erfindung sind mit der Vorrichtung auch nicht-kräuselnde Filamente erzeugbar.

Dass die Filamentablage mit der Ablageeinrichtung unmittelbar in die Verfestigungseinrichtung einführbar ist, meint im Rahmen der Erfindung insbesondere, dass zwischen dem Ablagebereich der Filamente und der Verfestigungseinrichtung keine weitere Verfestigungsvorrichtung mehr vorhanden ist, insbesondere kein Kalander vorhanden ist. – Eine bevorzugte Ausführungsform der erfindungsgemäßen Vorrichtung ist dadurch gekennzeichnet, dass zwischen der Spinneinrichtung und der Ablageeinrichtung eine Abkühl- und Verstreckeinheit für die Filamente angeordnet ist. Vorzugsweise ist zwischen der Verstreckeinheit und der Ablageeinrichtung fernerhin ein Diffusor für die Filamente vorhanden.

Der Erfindung liegt die Erkenntnis zugrunde, dass mit dem erfindungsgemäßen Verfahren und mit der erfindungsgemäßen Vorrichtung voluminöse bzw. dicke Spinnvliese hergestellt werden können, die sich durch eine ausgezeichnete Qualität und homogene Eigenschaften auszeichnen. Diese erfindungsgemäß hergestellten voluminösen Spinnvliese können im Hinblick auf ihre Dicke ohne Weiteres mit den bekannten "High Loft-Vliesen" aus Stapelfasern verglichen werden. Von besonderer Bedeutung ist im Rahmen der Erfindung, dass Spinnvliese aus Endlosfasern hergestellt werden können, die keine durch unkontrollierte Schrumpfkräfte entstandenen Inhomogenitäten bzw. Öffnungen oder Löcher aufweisen. Mit der erfindungsgemäßen Verfahrensführung kann

eine wirksame Kontrolle der Schrumpfkräfte erreicht werden. Die insbesondere mit Hilfe der gekräuselten Filamente erreichte voluminöse Filamentablage kann durch die unmittelbare thermische Verfestigung mit dem heißen Fluid effektiv fixiert werden, und zwar bei Beibehaltung oder sogar Steigerung der Dicke des Spinnvlieses. Der Erfindung liegt insoweit die Erkenntnis zugrunde, dass die Filamentablage auf der Ablageeinrichtung, mit der sie unmittelbar in die thermische Verfestigungseinrichtung eingeführt wird, effektiv gestützt und geführt wird und dass bei der unmittelbaren thermischen Verfestigung eine Fixierung der Filamentablage stattfinden kann, ohne dass die Filamentablage durch eingeschlossene Schrumpfkräfte unerwünscht geöffnet bzw. zerstört wird.

Nachfolgend wird die Erfindung anhand einer lediglich ein Ausführungsbeispiel darstellenden Zeichnung näher erläutert. Es zeigen in schematischer Darstellung:

Fig. 1 eine Seitenansicht einer ersten Ausführungsform einer erfindungsgemäßen Vorrichtung,

Fig. 2 den Gegenstand nach Fig. 1 in einer zweiten Ausführungsform,

Fig. 3 den Gegenstand gemäß Fig. 1 in einer dritten Ausführungsform,

Fig. 4 den in Fig. 1 dargestellten Gegenstand in einer vierten Ausführungsform,

Fig. 5 den Gegenstand gemäß Fig. 1 in einer fünften Ausführungsvariante,

Fig. 6 den Gegenstand nach Fig. 1 in einer sechsten Ausführungsform,

Fig. 7 den in Fig. 1 dargestellten Gegenstand in einer siebten Ausführungsvariante,

Fig. 8 einen Schnitt durch ein erfindungsgemäß eingesetztes Bikomponentenfilament,

Fig. 9 den Gegenstand nach Fig. 8 in einer weiteren Ausführungsform,

Fig. 10 den Gegenstand gemäß Fig. 8 in einer zusätzlichen Ausführungsvariante und

Fig. 11 den in Fig. 8 dargestellten Gegenstand in einer weiteren Ausführungsform.

Die Fig. 1 bis 7 zeigen eine Vorrichtung zur Durchführung des erfindungsgemäßen Verfahrens zur Herstellung eines voluminösen Spinnvlieses 1 aus Endlosfilamenten 2, 3. Es werden Filamente 2 mit natürlicher Kräuselung sowie nicht-kräuselnde Filamente 3 ersponnen und auf einer Ablageeinrichtung 4 abgelegt. Bei den Filamenten 2 mit natürlicher Kräuselung kann es sich um Filamente 2 mit azentrischer Kern/Mantel-Anordnung handeln (Fig. 9) oder um Filamente 2 mit Seite/Seite-Anordnung (Fig. 10 und 11). In Fig. 10 ist ein Bikomponentenfilament 2 mit symmetrischer Seite/Seite-Anordnung und in Fig. 11 ein Bikomponentenfilament 2 mit asymmetrischer Seite/Seite-Anordnung dargestellt. Als nicht-kräuselnde Filamente 3 können nicht dargestellte Monokomponentenfilamente eingesetzt werden oder Mehrkomponentenfilamente bzw. Bikomponentenfilamente 3 mit symmetrischer Kern/Mantel-Anordnung (Fig. 8).

Die mit einer oder mit mehreren nicht dargestellten Spinneinrichtungen ersponnenen Filamente 2, 3 werden zweckmäßigerweise zunächst zur Abkühlung durch eine nicht dargestellte Kühleinrichtung geführt und anschließend zur Verstreckung der Filamente 2, 3 durch eine ebenfalls nicht dargestellte Verstreckeinheit. An die Verstreckeinheit schließt erfindungsgemäß ein Diffusor 5 mit divergierenden Diffusorwänden an, der in den Fig. 1 bis 7 schematisch dargestellt wurde. Im Anschluss an den Diffusor werden die Filamente 2, 3 auf der Ablageeinrichtung 4 abgelegt. Mit dieser Ablageeinrichtung 4 werden die Filamente 2, 3 unmittelbar einer Verfestigungseinrichtung 6 zugeführt, in der die Filamente 2, 3 mit einem heißen Fluid, vorzugsweise mit Heißluft thermisch verfestigt werden. In den Fig. 1 bis 7 ist erkennbar, dass die Filamente 2, 3 mit der Ablageeinrichtung 4 unmittelbar und ohne Zwischenschaltung weiterer Verfestigungseinrichtungen der thermischen Heißfluidverfestigung zugeführt werden. In den Fig. 1 bis 7 ist die Beaufschlagung mit der Heißluft in der Verfestigungseinrichtung 6 durch Pfeile veranschaulicht worden. Diese Pfeile zeigen, dass die Heißluft vorzugsweise senkrecht auf die Oberfläche der Ablageeinrichtung 4 und senkrecht oder im Wesentlichen senkrecht auf die Oberfläche des Spinnvlieses 1 auftrifft. Durch diese Beaufschlagung mit der Heißluft wird das Spinnvlies 1 gegen die Ablageeinrichtung 4 gedrückt. In den Fig. 1 bis 7 ist im Übrigen unterhalb des Diffusors 5 ein weiterer Pfeil erkennbar. Dieser Pfeil soll verdeutlichen, dass unter der Ablageeinrichtung 4 unterhalb des Diffusors 5 bzw. unterhalb des Ablagebereiches der Filamente 2, 3 Luft durch die gasdurchlässige Ablageeinrichtung 4 angesaugt wird, um in üblicher Weise eine funktionssichere Ablage der Filamente 2, 3 zu gewährleisten.

Fig. 1 zeigt eine erste Ausführungsform einer erfindungsgemäßen Vorrichtung, bei der die Ablageeinrichtung 4 aus einer einzigen Ablageeinheit in Form eines Siebbandes 7 besteht. Die unterhalb des Diffusors 5 abgelegten Filamente 2, 3 werden auf der Oberseite dieses Siebbandes 7 unmittelbar in die Verfestigungseinrichtung 6 eingeführt und dort wird die Filamentablage bzw.

das Spinnvlies 1 thermisch mit Heißluft verfestigt. Indem die bislang "lose" Filamentablage mit Hilfe der Luftkräfte gegen das Siebband 7 gepresst wird, können unerwünschte Verschiebungen bzw. Schrumpföffnungen im Spinnvlies effektiv vermieden werden.

Im Ausführungsbeispiel nach Fig. 2 besteht die Ablageeinrichtung 4 aus einer ersten Ablageeinheit in Form eines ersten Siebbandes 7, auf dem die ersponnenen Filamente 2, 3 abgelegt werden. Mit diesem ersten Siebband 7 wird das Spinnvlies 1 zu einer in Form eines zweiten Siebbandes 8 ausgebildeten zweiten Ablageeinheit geführt und mit diesem zweiten Siebband 8 wird das Spinnvlies 1 durch die Verfestigungseinrichtung 6 transportiert. Das Spinnvlies 1 wird auf der Oberseite der beiden Siebbänder 7, 8 transportiert und von dem ersten Siebband 7 unmittelbar, d. h. ohne Zwischenschaltung weiterer Ablageeinheiten an das zweite Siebband 8 übergeben. Nach besonders bevorzugter Ausführungsform der Erfindung ist die Transportgeschwindigkeit des zweiten Siebbandes 8 gegenüber der Transportgeschwindigkeit des ersten Siebbandes 7 reduziert. Auch durch die Geschwindigkeitsverminderung vom ersten Siebband 7 zum zweiten Siebband 8 kann einer unerwünschten Schrumpftendenz in der Filamentablage effektiv kompensiert werden.

Bei der in Fig. 3 dargestellten Ausführungsform besteht die Ablageeinrichtung 4 aus einer ersten Ablageeinheit in Form eines ersten Siebbandes 7, aus einer zweiten Ablageeinheit in Form eines zweiten Siebbandes 8 und aus einer dritten Ablageeinheit in Form eines dritten Siebbandes 9. Die Filamente 2, 3 werden zunächst auf dem ersten Siebband 7 abgelegt und dann in der Fig. 3 nach links in Richtung des Pfeiles zum dritten Siebband 9 transportiert. Die auf der Oberseite des ersten Siebbandes 7 aufliegende Filamentablage wird an die Unterseite des dritten Siebbandes 9 übergeben. Dabei wird die Filamentablage durch Luftansaugung an der Unterseite des dritten Siebbandes 9 gehalten. Diese Luftansaugung am dritten Siebband 9 wird in Fig. 3 durch einen Pfeil

angedeutet. Von der Unterseite des dritten Siebbandes 9 wird die Filamentablage dann an die Oberseite des zweiten Siebbandes 8 übergeben. In der Fig. 3 ist erkennbar, dass die Unterseite des dritten Siebbandes 9 mit den Oberseiten des ersten Siebbandes 7 und des zweiten Siebbandes 8 überlappt. Die auf der Oberseite des zweiten Siebbandes 8 aufliegende Filamentablage wird dann mit dem zweiten Siebband 8 durch die Verfestigungseinrichtung 6 geführt. Nach besonders bevorzugter Ausführungsform der Erfindung reduziert sich die Transportgeschwindigkeit von ersten Siebband 7 zum dritten Siebband 9 und vom dritten Siebband 9 zum zweiten Siebband 8. Mit anderen Worten läuft in der Ausführungsform der Fig. 3 das erste Siebband 7 mit der höchsten Transportgeschwindigkeit, das dritte Siebband 9 mit der zweithöchsten Transportgeschwindigkeit und das zweite Siebband 8 mit der niedrigsten Transportgeschwindigkeit.

Auch im Ausführungsbeispiel nach der Fig. 4 werden die Filamente 2, 3 auf dem ersten Siebband 7 abgelegt und zunächst auf der Oberseite dieses Siebbandes 7 nach links in Richtung Verfestigungseinrichtung 6 transportiert. Anschließend wird die Filamentablage in einen Spalt 10 eingeführt, der von dem unteren ersten Siebband 7 und von einem oberen zweiten Siebband 8 begrenzt wird. In diesem Spalt 10 wird die Filamentablage durch die Verfestigungseinrichtung 6 transportiert. Durch die Luftkräfte in der Verfestigungseinrichtung 6 wird die Filamentablage aber von der Oberseite des ersten Siebbandes 7 angehoben und an die Unterseite des zweiten Siebbandes 8 angedrückt und gleichsam von dem zweiten Siebband 8 nach links weitertransportiert.

Im Ausführungsbeispiel nach Fig. 5 werden die Filamente 2, 3 auf der Oberseite des ersten Siebbandes 7 abgelegt und nach links in Richtung Verfestigungseinrichtung 6 transportiert. Vor der Verfestigungseinrichtung 6 bekommt die Filamentablage Kontakt mit einem oberen zweiten Siebband 8 und wird von

dem ersten Siebband 7 an die Unterseite des zweiten Siebbandes 8 übergeben und an der Unterseite des zweiten Siebbandes 8 durch die Verfestigungseinrichtung 6 transportiert. Die Filamentablage wird dabei durch die Luftkräfte in der Verfestigungseinrichtung 6 an der Unterseite des zweiten Siebbandes 8 gehalten. Die Transportgeschwindigkeit des zweiten Siebbandes 8 ist wie auch im Ausführungsbeispiel nach Fig. 4 auch hier vorzugsweise gegenüber der Transportgeschwindigkeit des ersten Siebbandes 7 reduziert.

Eine weitere Ausführungsvariante der erfindungsgemäßen Vorrichtung ist in Fig. 6 dargestellt. Die Filamente 2, 3 werden wie auch bei den anderen Vorrichtungsvarianten auf der Oberseite des ersten Siebbandes 7 abgelegt und nach links in Richtung Verfestigungseinrichtung 6 transportiert. Im Bereich der Verfestigungseinrichtung 6 ist ein zweites oberes Siebband 8 vorhanden. Das erste untere Siebband 7 bildet mit dem zweiten oberen Siebband 8 einen Spalt und in diesem Spalt wird das Spinnvlies 1 durch die Verfestigungseinrichtung 6 transportiert, wobei das Spinnvlies bei dieser Ausführungsvariante sowohl an der Oberseite des ersten Siebbandes 7, als auch an der Unterseite des zweiten Siebbandes 8 anliegt. Das Spinnvlies wird also gleichsam zwischen den Siebbändern 7, 8 eingeklemmt.

Fig. 7 zeigt eine Vorrichtungsvariante für die Herstellung eines zweilagigen Spinnvlieses 1. Hier sind zwei nicht dargestellte Spinnköpfe vorhanden, mit denen Filamente 2, 3 ersponnen werden, die auf hintereinander angeordneten Ablagebereichen auf der Oberseite des ersten Siebbandes 7 abgelegt werden. Die zwei Filamentablagen werden dann von dem ersten Siebband 7 unmittelbar an ein zweites Siebband 8 übergeben und auf der Oberseite dieses zweiten Siebbandes 8 weiter transportiert und durch die Verfestigungseinrichtung 6 geführt. In der Fig. 7 ist erkennbar, dass Saugbereiche nicht nur unter den beiden Diffusoren 5 vorhanden sind, sondern auch zwischen den Ablagebereichen bzw. zwischen den Diffusoren 5 unterhalb des ersten Siebbandes 7.

Durch diesen zwischengeschalteten Saugbereich können unerwünschte Verschiebungen bzw. Schrumpföffnungen in der ersten Filamentablage bis zur Ablage der zweiten Filamentablage verhindert werden.

5

EPO - Munich
77
26. April 2006

Patentansprüche:

1. Verfahren zur Herstellung eines Spinnvlieses (1) mit Filamenten (2) mit natürlicher Kräuselung, wobei die Filamente (2) durch eine Verstreckeinheit und im Anschluss daran durch einen Diffusor (5) geführt werden, wobei die Filamente daraufhin auf einer Ablageeinrichtung als gekräuselte Filamente abgelegt werden und wobei diese abgelegten gekräuselten Filamente mit dieser Ablageeinrichtung einer Verfestigungseinrichtung zugeführt werden, in der die Filamente (2) mit einem Fluid verfestigt werden.

2. Verfahren nach Anspruch 1, wobei die Verfestigung als thermische Verfestigung mit einem heißen Fluid durchgeführt wird.

3. Verfahren nach einem der Ansprüche 1 oder 2, wobei die Filamente (2) mit natürlicher Kräuselung Mehrkomponentenfilamente, insbesondere Mehrkomponentenfilamente mit Seite/Seite-Anordnung und/oder mit azentrischer Kern/Mantel-Anordnung sind.

4. Verfahren nach einem der Ansprüche 1 bis 3, wobei zusätzlich zu den Filamenten (2) mit natürlicher Kräuselung auch nicht-kräuselnde Filamente (3) ersponnen und auf der Ablageeinrichtung abgelegt werden.

5. Verfahren nach Anspruch 4, wobei die nicht-kräuselnden Filamente (3) Monokomponentenfilamente und/oder Mehrkomponentenfilamente mit symmetrischer Kern/Mantel-Anordnung sind.

6. Verfahren nach einem der Ansprüche 4 oder 5, wobei das Spinnvlies (1) zumindest eine Lage aufweist, die aus einer Mischung aus Filamenten (2) mit natürlicher Kräuselung und aus nicht-kräuselnden Filamenten (3) besteht.

7. Verfahren nach Anspruch 6, wobei die Lage mehr als 20 Gew.-% natürlich kräuselnder Filamente (2), vorzugsweise mehr als 30 Gew.-% natürlich kräuselnder Filamente (2) aufweist.

8. Verfahren nach einem der Ansprüche 1 bis 7, wobei mit einer Ablageeinrichtung (4) gearbeitet wird, die aus zumindest einer Ablageeinheit in Form eines gasdurchlässigen Siebbandes besteht.

9. Verfahren nach einem der Ansprüche 2 bis 8, wobei das Spinnvlies (1) in der Verfestigungseinrichtung (6) mit dem heißen Fluid mit der Maßgabe beaufschlagt wird, dass das Spinnvlies (1) gegen die Ablageeinrichtung (4), insbesondere gegen ein gasdurchlässiges Siebband der Ablageeinrichtung (4) gedrückt wird.

10. Verfahren nach einem der Ansprüche 1 bis 9, wobei die Ablageeinrichtung (4) aus einer einzigen Ablageeinheit, insbesondere in Form eines Siebbandes (7) besteht und wobei das Spinnvlies (1) auf dieser einzigen Ablageeinheit durch die Verfestigungseinrichtung (6) befördert wird.

11. Verfahren nach einem der Ansprüche 1 bis 9, wobei die Ablageeinrichtung (4) aus einer ersten Ablageeinheit, insbesondere in Form eines ersten Siebbandes (7) besteht, auf der die ersponnenen Filamente (2, 3) abgelegt werden, wobei das Spinnvlies (1) mit der ersten Ablageeinheit zu einer zweiten Ablageeinheit, insbesondere in Form eines zweiten Siebbandes (8) transportiert wird und mit dieser zweiten Ablageeinheit durch die Verfestigungseinrichtung (6) transportiert wird.

12. Verfahren nach Anspruch 11, wobei die zweite Ablageeinheit das Spinnvlies (1) mit einer gegenüber der ersten Ablageeinheit reduzierten Transportgeschwindigkeit befördert.

13. Verfahren nach einem der Ansprüche 1 bis 9 oder 11 oder 12, wobei das Spinnvlies (1) auf der Oberseite einer ersten Ablageeinheit abgelegt wird und an der Unterseite einer zweiten Ablageeinheit durch die Verfestigungseinrichtung (6) transportiert wird.

14. Verfahren nach einem der Ansprüche 1 bis 9 oder 11 bis 13, wobei das Spinnvlies (1) auf einer ersten Ablageeinheit abgelegt wird und anschließend zwischen der ersten und einer weiteren Ablageeinheit durch die Verfestigungseinrichtung (6) transportiert wird.

15. Verfahren nach einem der Ansprüche 1 bis 14, wobei das thermisch verfestigte Spinnvlies anschließend einer Endverfestigung unterworfen wird.

16. Vorrichtung zur Herstellung eines voluminösen Spinnvlieses (1) mit Filamenten (2) mit natürlicher Kräuselung, wobei zumindest eine Spinneinrichtung zur Erzeugung von Filamenten (2) vorgesehen ist, wobei eine Verstreckeinheit, ein Diffusor (5) und eine Ablageeinrichtung (4) zur Ablage von gekräuselten Filamenten vorhanden ist und wobei eine Verfestigungseinrichtung (6) zur Verfestigung der Filamentablage mit der Maßgabe angeordnet ist, dass die Filamentablage mit der Ablageeinrichtung (4) unmittelbar in die Verfestigungseinrichtung (6) einführbar ist.

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77
26. April 2006

Zusammenfassung:

Verfahren zur Herstellung eines Spinnvlieses mit Filamenten mit natürlicher Kräuselung, wobei die Filamente durch eine Verstreckeinheit und im Anschluss daran durch einen Diffusor geführt werden. Die Filamente werden daraufhin auf eine Ablageeinrichtung als gekräuselte Filamente abgelegt. Die abgelegten Filamente werden mit dieser Ablageeinrichtung einer Verfestigungseinrichtung zugeführt, in der die Filamente mit einem Fluid verfestigt werden.

Zu veröffentlichen mit Fig. 1.

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77
26. April 2006

Fig.1

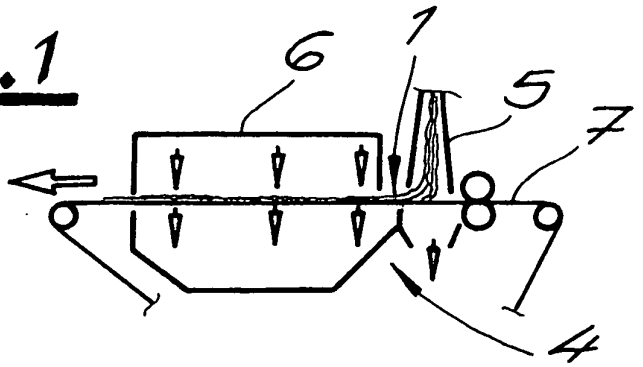


Fig.2

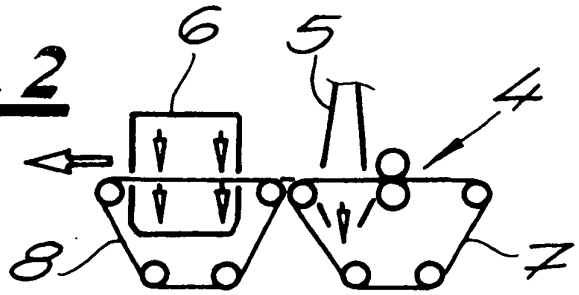


Fig.3

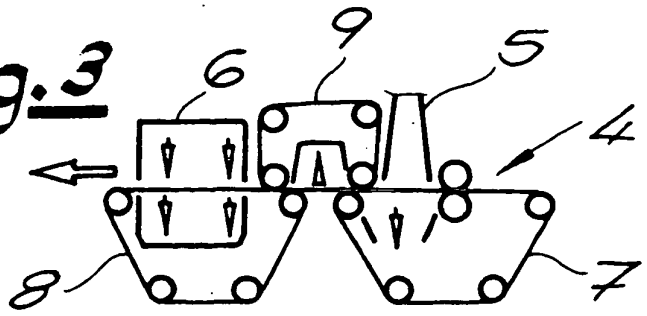


Fig. 4

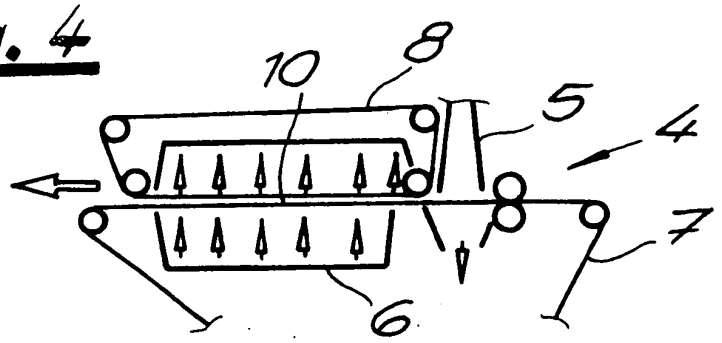


Fig. 5

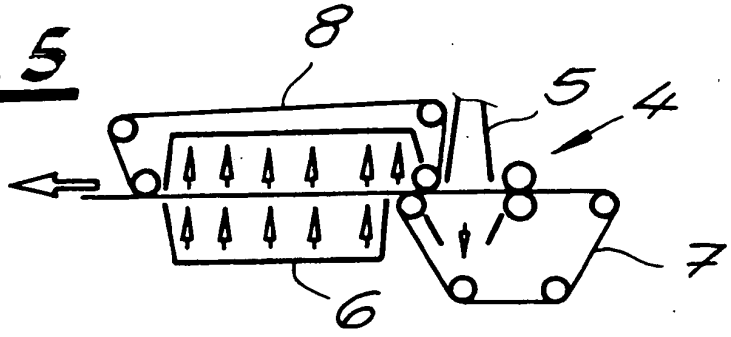
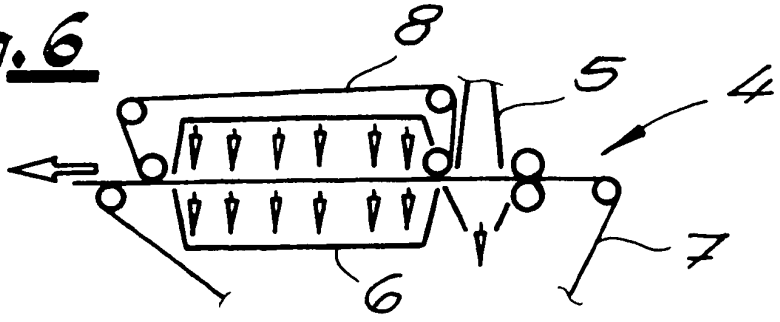


Fig. 6



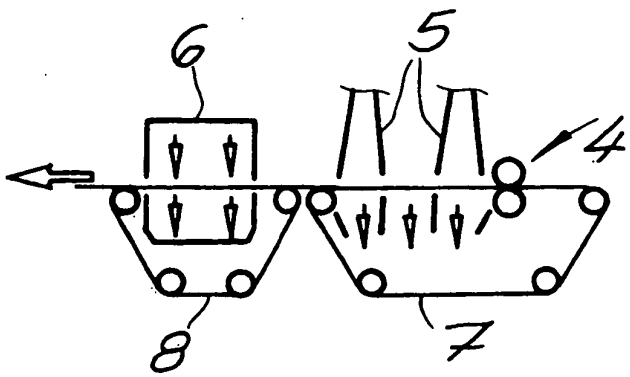


Fig. 7

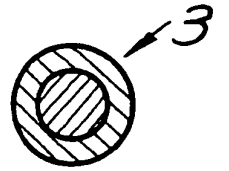


Fig. 8

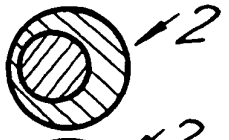


Fig. 9

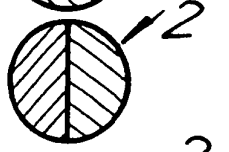


Fig. 10

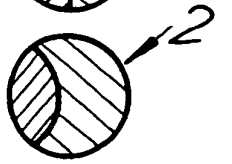


Fig. 11

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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S. RIVERSIDE PLAZA, 22ND FLOOR
CHICAGO, IL 60606

MAILED

JUL 16 2010

OFFICE OF PETITIONS

In re Application of :
Yoshinari HIGAKI, et *al.* :
Application No. 10/576,177 : DECISION GRANTING PETITION
Filed: April 19, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **0553-0494** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 05/21/2010

Applicant	: Tatsushi Ako	: DECISION ON REQUEST FOR
Patent Number	: 7619013	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/576,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **512** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

17 MAY 2006

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Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, D.C. 20001-4413

In re Application of :
MONNERET et al. :
Application No.: 10/576,201 : DECISION ON PETITION
PCT No.: PCT/FR04/02218 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 September 2004 :
Priority Date: 02 September 2003 :
Attorney Docket No.: 03715.0153 :
For: 9-AMINO-PODOPHYLLOTOXIN DERIVATIVES, METHOD FOR THE PRODUCTION THEREOF AND PHARMACEUTICAL COMPOSITIONS CONTAINING SAID DERIVATIVES :

The petition to revive under 37 CFR 1.137(b) filed 17 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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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	: Kazuya Otani	: DECISION ON REQUEST FOR
Patent Number	: 7589433	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,237	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **571** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/576,359	04/19/2006	Gerhard Frick	5830

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

DATE MAILED: August 22, 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 August 21, 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) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

05 MAY 2006

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David S. Resnick
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110-2131

In re Application of FARBER et al	:	
U.S. Application No.: 10/576,388	:	
PCT Application No.: PCT/US04/03020	:	DECISION
Int. Filing Date: 03 February 2004	:	
Priority Date Claimed: 03 February 2003	:	
Attorney Docket No.: 003252-53292	:	
For: METHODS AND COMPOSITIONS FOR INHIBITING CHOLESTEROL UPTAKE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 April 2006.

BACKGROUND

On 03 February 2004, applicant filed international application PCT/US04/03020, which claimed priority of an earlier United States application filed 03 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 03 August 2005.

International application PCT/US04/03020 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 April 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,410	02/20/2007	Yatendra Kumar	RLL-447US	5430

7590 02/12/2008

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER	
BALASUBRAMANIAN, VENKATARAMAN	

ART UNIT	PAPER NUMBER
1624	

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.

Patent Publication Branch
Office of Data Management

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Chie Ishikawa	: DECISION ON REQUEST FOR
Patent Number	: 7599050	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,486	: 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 **126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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24 NOV 2008

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
Komori et al. :
Application No. 10/576,496 :
PCT No.: PCT/JP2004/015879 :
Int. Filing Date: 20 October 2004 : DECISION
Priority Date: 20 October 2003 :
Atty. Docket No.: Q94468 :
For: Bone And/Or Joint Disease-Associated Genes :

This is in response to applicants' "Petition Under 37 C.F.R. § 1.182..." filed on 19 December 2006.

BACKGROUND

This international application was filed on 20 October 2004, claimed an earliest priority date of 20 October 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 April 2006. Applicants filed, *inter alia*, the basic national fee on 20 April 2006. Subsequently, petitioner's deposit account was debited for excess claim fees.

DISCUSSION

A review of international application PCT/JP2004/015879 reveals that 40 claims appeared in the published international application. On 13 September 2006, applicants filed a preliminary amendment whose entry resulted in 93 claims being present in the case. Petitioner filed another ("second") preliminary amendment on 27 October 2006 (after the mailing of a Notice of Acceptance on 26 October 2006) reducing the number of claims to 24. MPEP 1893.01(c) states in relevant part that

> 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.)

Petitioner states that the second preliminary amendment was filed based on the oral

suggestion of a USPTO employee.[1] Although applicant may have sought to reduce the number of claims for examination prior to calculation and processing of the fees, the second preliminary amendment was not filed until after the fees had been calculated and charged. Therefore, as a "subsequently filed amendment" filed subsequent to payment of the fees, the later-filed second preliminary amendment of 27 October 2006 does not entitle applicant to a refund of the previously paid excess claim fees. *See* 37 CFR 1.26 ("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"). The petition fails to make a sufficient showing that a miscarriage of justice would occur if the Office adheres to the requirement plainly set forth in MPEP 1893.01(c) and noted above.

DECISION

The petition is **DISMISSED**, without prejudice, for the reasons discussed above.

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 1.182".

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.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

[1]*See* 37 CFR 1.2 ("No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt").

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08 DEC 2008

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MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

In re Application of :
DeFrees et al. :
Application No.: 10/576,506 :
PCT No.: PCT/US2004/041070 :
Int. Filing Date: 03 December 2004 : DECISION
Priority Date: 03 December 2003 :
Attorney Docket No.: 40853-5144US1 :
For: Glycopegylated Factor IX :

This is in response to applicants' correspondence filed on 15 October 2008.

BACKGROUND

International application PCT/US2004/041070 was filed on 03 December 2004, claimed an earliest priority date of 03 December 2003, and designated the United States. The 30 month time period for payment of the basic national fee in the United States expired as of midnight on 03 June 2006. A basic national fee was paid in 10/576,506 on 18 April 2006.

On 03 September 2008, a Notice of Acceptance (Form PCT/DO/EO/903) and a Filing Receipt were mailed to applicants; both documents referred to "PCT/US04/14070" rather than PCT/US2004/041070.

DISCUSSION

Counsel "respectfully requests that the priority application listed in the PAIR system for the above-identified application be corrected to read as follows: PCT/US04/14070 filed December 3, 2004." Counsel also "requests that a corrected filing receipt, reflecting the true and correct priority date of December 3, 2004 for PCT Application No. PCT/US04/41070, be issued by the Patent Office."

Review of the record reveals that the Transmittal Letter, preliminary amendment, IDS and ADS filed on 18 April 2008 all identified this application as the national stage under 35 U.S.C. 371 of PCT/US2004/041070, rather than PCT/US04/14070 as indicated on the Notice of Acceptance and on the Filing Receipt. The bibliographic information pertaining to PCT/US2004/041070 matches that appearing on the papers filed on 18 April 2006. Therefore, both the Notice of Acceptance and the Filing Receipt mailed on 03 September 2008 were defective, and both are hereby **VACATED**.

DECISION

The request is **GRANTED**, to the extent noted.

This application is being returned to the Office of Patent Application Processing for correction of the electronic records of the USPTO to show its correct status as the national stage of PCT/US2004/041070. A new Notice of Acceptance (Form PCT/DO/EO/903) and a new Filing Receipt showing the correct PCT information will also be prepared and mailed to applicants.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED
MAR 22 2010

In re Application of :
Defrees, et al. :
Application No. 10/576,506 : DECISION
Filed: 18 April, 2006 :
Attorney Docket No. 101961-5144-US01

This is a decision on the letter considered as a petition filed on 11 September, 2009, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

It appears that Petitioner may have indicated an incorrect fee amount as to Fee Code 2681.

Petitioner has the responsibility of reviewing Petitioner's records and submitting accurate information to the Office. Petitioner has a duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office. (*See*: 37 C.F.R. §1.4, §10.18, MPEP §410.)

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees are charged to Deposit Account 50-0310, as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to Technology Center/AU 1654 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/04/2010

Applicant	: Tohru Yamaoka	: DECISION ON REQUEST FOR
Patent Number	: 7620192	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/576,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **643** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Markus Guempel	: DECISION ON REQUEST FOR
Patent Number	: 7578061	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **684** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/576,588	04/21/2006	Kunio Gobara	MAT-8844US	7276

52473 7590 04/16/2009

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
HOSSEINI, REZA	

ART UNIT	PAPER NUMBER
2442	

MAIL DATE	DELIVERY MODE
04/16/2009	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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APR 16 2009

TECHNOLOGY CENTER 2100

Lawrence E. Ashery
Ratnerpresia
P.O. Box 980
Valley Forge, PA 19482

In re Application of: Gobara, Kunio et. al.
Serial No.: **10/576,588**
Filed: April 21, 2006
Docket: MAT-8844US
For: COMMUNICATION SYSTEM, INFORMATION PROCESSING APPARATUS, SERVER, AND COMMUNICATION METHOD

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. § 708.02 VIII

This is a response to the petition filed August 29, 2006 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 Petition to make special 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.

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 Technology Center (TC) Special Program Examiner.

DECISION

The petition filed August 29, 2006 fails to adequately meet requirement (e) of the criteria set forth above. The applicant must discuss how the claimed subject matter is patentable over the reference including any newly presented claims are patentable over any applied references. It is noted that 37 C.F.R. § 1.111 requires "pointing out the specific distinctions believed to render the claims, ***including any newly presented claims***, patentable over any applied references".

In the petition, identifies distinctions believed to render the claims unpatentable over the cited references with respect to independent claim 1, and additionally claims 5, 9, 15, 18, and 21 (*see* pg 3-4). The claims currently pending in this application have been amended on April 21, 2006, which cancelled claims 1-88 and added claims 89-128, thus ***claims 89-128 are currently pending*** in instant application.

Accordingly, the petitioner's detailed discussion of the references fails to comply with requirement of section (e), above mentioned.

For the above-mentioned reasons the petition to Make Special is **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Any request for reconsideration made by the petition should address the detailed discussion of the references to comply with 37 CFR 1.111(b). More specifically, ensure the discussion *particularity addresses the patentability of each pending claims.* 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.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/kb/

Beatriz Prieto, WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

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JUN 23 2009

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Lawrence E. Ashery
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

In re Application of: GOBARA, Kunio et. al.
Serial No.: **10/576,588**
Filed: April 21, 2006
Docket: MAT-8844US
Title: COMMUNICATIONS SYSTEM, INFORMATION PROCESSING APPARATUS, SERVER, AND COMMUNICATION METHOD

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 August 29, 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.**

A petition to make special was filed in the above-identified application under 37 CFR §1.102(d) on August 29, 2006. That petition was dismissed in a decision mailed on April 16, 2009 wherein a period of 2 (TWO) months, was set to request reconsideration.

The reasons for the dismissal were failing to point out with the particularity required by 37 CFR §1.111 (b) and (c) and how the claimed subject matter is patentable over the references.

The petitioner, however, has chosen not to file a request for reconsideration within two months of the initial decision dismissing the petition.

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.

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

Applicant is reminded that any single failure to meet each of the requirements of the petition is sufficient for denial, but all deficiencies are being noted as a courtesy should petitioner wish to submit another petition in any continuing application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/pl/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Networking, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,588	04/21/2006	Kunio Gobara	MAT-8844US	7276

52473 7590 06/24/2009

RATNERPRESTIA
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VALLEY FORGE, PA 19482

EXAMINER	
HOSSEINI, REZA	
ART UNIT	PAPER NUMBER
2442	
MAIL DATE	DELIVERY MODE
06/24/2009	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

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Alexandria, VA 22313-1450
www.uspto.gov

25 APR 2007

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of :
MARQUE et al. :
U.S. Application No. 10/576,602 :
PCT No.: PCT/FR04/02710 : DECISION ON REQUEST
Int. Filing Date: 22 October 2004 :
Priority Date: 23 October 2003 :
Attorney Docket No.: P29801 :
For: HOLDING DEVICE FOR A RESPIRATORY MASK

This decision is issued in response to applicants' COVER LETTER filed 02 January 2007, which is being treated as a request under 37 CFR 1.181 to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 31 October 2006. No petition fee is due.

BACKGROUND

On 22 October 2004, applicants filed international application PCT/FR04/02710 which claimed a priority date of 23 October 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 06 May 2005. The international application named Pierre-Louis Marque; Martine Boisseau; Linda Rumpel; Elisabeth Fournier; and Jean-Luc Godet as applicants/inventors. 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, 23 April 2006.

On 21 April 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 copy of the international application, and a declaration.

On 31 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form (PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date. Additionally, the Notification of Missing Requirements indicated that a translation of international application and the surcharge for filing the translation of international application later than thirty months after the priority date were required.

On 02 January 2007, applicants filed COVER LETTER which stated, "the executed declaration submitted April 21, 2006 is fully in compliance with 37 CFR 1.497(a)-(b). . .and that the names listed on the declaration are the same as those identified in the International Application." Additionally, applicants submitted a translation of the international application.

DISCUSSSION

The declaration filed on 21 April 2006 is not acceptable under 37 CFR 1.497 because it is not properly executed by the inventors of record. Specifically, the name of the second, third, and fourth inventors on the declaration (Martine Boisseau épouse Daney; Linda Rumpel épouse Kisch; and Elisabeth Fournier épouse Emery) does not correspond to the name of record for these inventors, Martine Boisseau; Linda Rumpel; and Elisabeth Fournier. Because this difference in the inventor's names involve more than a mere typographical error, a petition under 37 CFR 1.182 is required.

Section 605.04(c) of the Manual Of Patent Examining Procedure ("MPEP") sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name where, as apparently is the case here, an inventor's name has been changed after the filing of the application. According to the MPEP, such a petition "must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order."

Further, the declaration does not comply with 37 CFR 1.69 in that it has not been fully translated into English. The translation of the body of the declaration is acceptable since applicants have used the French-English declaration form provided by the USPTO, however, the names of the second, third, and fourth inventors contain the word "épouse" which has not been translated. (See 37 CFR 1.69(b). Therefore, a newly executed declaration by all the inventors is required.

CONCLUSION

Applicants' request is **DISMISSED**.

The declaration filed on 21 April 2006 is not acceptable under 37 CFR 1.497(a)-(b) for failure to properly identify the current inventors of record. Further, the declaration is not acceptable under 37 CFR 1.69.

A proper response, as discussed above, must be filed within **ONE (1) MONTH** of the date of mailing of this notification. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the Notification of Missing Requirements may be extended up to a maximum of five months.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

COPY MAILED
JAN 25 2010

In re Application of :
Panczuk et al :
Application No. 10/576,608 : DECISION ON PETITION
Filed: 02/28/2007 :
Attorney Docket No. 71247-0057 :

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 submit corrected drawings in a timely manner in response to the Notice of Allowability, mailed March 27, 2009, which set a statutory period of three (3) months to reply. In the absence of the timely submission of corrected drawings, the application became abandoned and a Notice of Abandonment was mailed on July 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to the Office of Data Management for issuance of the patent.

Telephone 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

04 DEC 2006

Mani Adeli
Slattler Johansen & Adeli LLP
1875 Century Park East, Suite 1360
Los Angeles, CA 90067

In re Application of
SHAHIDI, Ramin
Application No.: 10/576,632
PCT No.: PCT/US04/35014
Int. Filing Date: 21 October 2004
Priority Date: 21 October 2003
Attorney Docket No.: Stan.P0009PCTUS
For: SYSTEMS AND METHOD FOR INTRAOPERATIVE TARGETING

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

18 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Deborah Chess
Honeywell International, Inc.
Patent Service
101 Columbia Road
Mail Stop AB/2B
Morristown, NJ 07962

In re Application of	:	
KRAEUTLER	:	
Application No.: 10/576,657	:	
PCT No.: PCT/FR04/02638	:	DECISION ON PETITION
Int. Filing Date: 15 October 2004	:	
Priority Date: 17 October 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: GER-0814	:	
For: DOUBLE SCREEN RAPID DOOR	:	

The petition to revive under 37 CFR 1.137(b) filed 20 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

09 JUL 2007

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
Mori et al. :
Application No. 10/576,676 :
PCT No.: PCT/JP04/15600 :
Int. Filing Date: 21 October 2004 : COMMUNICATION
Priority Date: 24 October 2003 :
Att. Docket No.: 4670-0124PUS1 :
For: Binder For Electrode Of Electric :
Double Layer Capacitor :

This is in response to the petition under 37 CFR 1.182 filed on 22 May 2007.

BACKGROUND

This international application was filed on 21 October 2004, claimed an earliest priority date of 24 October 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 06 May 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 24 April 2006. Applicants filed, *inter alia*, the basic national fee on 21 April 2006.

On 22 March 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h). It was noted that "Inventor number three Mayumi Kaneko as published, signed the declaration as Mayumi Fukumine. Form PCT/IB/306 is required of such a change."

DISCUSSION

Inspection of the declaration filed on 22 May 2007 reveals that it nominates "Mayumi FUKUMINE" in place of "KANEKO, Mayumi" who is nominated 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 change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition (and fee) under 37 CFR 1.182 is required. *See also* MPEP MPEP § 201.03(b). Petitioner has filed such a petition (and fee). Said petition is accompanied by a "Statement By Co-Inventor Regarding Recent Name Change" stating in part that "I declare that my name has recently been legally changed under Japanese law: From Ms. Mayumi Kaneko to Ms. Mayumi Fukumine." This "Statement..." is signed by Ms. Fukumine using both names. In view of the totality of the evidence currently of record, it would be

appropriate to accept the declaration filed on 22 May 2007 for purposes of compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 May 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

07/09/2007 SBASHEIR 00000002 022448 10576676
01 FC:1617 130.00 DA

Adjustment date: 07/09/2007 SBASHEIR
05/23/2007 INTEFSW 00016228 022448 10576676
01 FC:1051 130.00 CR

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REED SMITH, LLP
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042

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JUL 3 0 2008

OFFICE OF PETITIONS

Applicant: Yamazuki
Appl. No.: 10/576,677
Filing Date: April 21, 2006
Title: MULTILAYER FILM
Attorney Docket No.: 358275-30004
Pub. No.: 2007/0134476 A1
Pub. Date: June 14, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 14, 2007, for the above-identified application.

The request is granted-in-part.

The error in claim 11 is granted.

The request to renumber paragraphs 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 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 numbering of the paragraphs as noted by requestor in the specification are not material Office errors under 37 CFR 1.221.

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 The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Frank Schnell	: DECISION ON REQUEST FOR
Patent Number	: 7574895	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,683	: 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 **276** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-08-09

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/576688 Patent No.: 7580439

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

_____ _____
SPE **Art Unit**

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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No. 10/576,689 : DECISION ON PETITION
Filed: August 14, 2006 :
Attorney Docket No. 251611 :

This is a decision on the petition under 37 CFR 1.182, filed March 8, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 1624 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/576,689	08/14/2006	1624	1930	251611	38	3

CONFIRMATION NO. 7386

CORRECTED FILING RECEIPT

OC000000025888657

45733
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Date Mailed: 09/18/2007

Receipt is acknowledged of this nonprovisional 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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. 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)

Paul S. Liu, Chevy Chase, MD;
B. Rao Vishnuvajjala, Rockville, MD;
Kenneth M. Snader, Vero Beach, FL;
David E. Thurston, Hampshire, UNITED KINGDOM;
Philip W. Howard, St. Albans, UNITED KINGDOM;
Luke Y. Hsiao, San Diego, CA;
Gregory Turner, Independence, MO;

Power of Attorney: The patent practitioners associated with Customer Number **45733**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/35050 10/22/2004
which claims benefit of 60/513,751 10/22/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/20/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/576,689

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pyrrolobenzodiazepine derivatives, compositions comprising the same and methods related thereto

Preliminary Class

540

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Yohei Kanno	: DECISION ON REQUEST FOR
Patent Number	: 7598129	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/576,692	: 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 **570** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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31 AUG 2007

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
MASON, Rex, Allan
U.S. Application No.: 10/576,705
PCT No.: PCT/NZ2004/000259
International Filing Date: 15 October 2004
Priority Date: 21 October 2003
Attorney's Docket No.: JAMES117.001APC
For: ANTI-FOAMING DEVICE

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 19 July 2007. Petitioner has filed the required petition fee.

BACKGROUND

On 15 October 2004, applicant filed international application PCT/NZ2004/000259. The application claimed a priority date of 21 October 2003, and it designated the United States. On 28 April 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 April 2006.

On 20 April 2006, petitioner filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee.

On 20 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration acceptable under 37 CFR 1.497 was required.

On 19 July 2007, petitioner filed a response to the Notification Of Missing Requirements, with required two-month extension fee. The response included the petition under 37 CFR 1.47(b) considered herein, which seeks acceptance of the application without the signature of the inventor, whom petitioner states has refused to execute the application papers.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be

reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; (5) proof of proprietary interest in the application: and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The present submission satisfies items (1), (3), and (4).

Regarding item (1), petitioner has submitted the required $200 petition fee. Item (1) is therefore satisfied.

Regarding item (2), where it is asserted that the an inventor has refused to execute the declaration, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided a statement from Sandra Jo Wilcocks, with accompanying exhibits, as evidence of the efforts to obtain the signature of the non-signing inventor on the declaration. The exhibits include copies of the following relevant correspondence: (a) a letter mailed to the non-signing inventor's attorney requesting his signature on the declaration and separate "Deed of Assignment" document; (b) a response from the inventor's attorney setting forth an objection to the language in the Deed of Assignment and stating that, once this language was corrected, the inventor would execute the Deed and the USA Power of Attorney (i.e., the declaration); (c) a responsive letter to the inventor's attorney discussing the Deed of Assignment (but not the declaration); (d) a letter from the inventor's attorney stating that the comments regarding the Deed of Assignment had been forwarded to the inventor; (e) a letter to the inventor's attorney, dated 29 May 2007, requesting the inventor's signature on the declaration and on a general assignment; this letter states that it included a copy of the complete application. No response to this final letter had been received at the time the present petition was filed.

The materials filed herein are not sufficient to confirm that the non-signing inventor has refused to sign the declaration in the present application. While the inventor has not provided the requested declaration, the present record does not include a request for the inventor to execute the declaration which is not combined with a request to execute the disputed Assignment document (the document which the inventor has expressly refused to sign). Petitioner must provide a proper showing confirming that the inventor has refused such a request before it can be concluded that the inventor has refused to execute the declaration herein; evidence should also be provided regarding any response that has been received from the inventor or his attorney with respect to the 29 May 2007 letter. Based on the above, on the present record, item (2) is not satisfied.

Regarding item (3), the petition includes an express statement of the last known addresses of the non-signing inventor. Item (3) is satisfied.

Regarding item (4), the petition includes a declaration executed on behalf of the non-signing inventor by a representative of the 37 CFR 1.47(b) applicant, Eliminator Holdings Ltd ("Eliminator"). Item (4) is therefore satisfied.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner here asserts that it has the required proprietary interest based on an "Agreement" between Vergence Holdings Limited ("Vergence") and the inventor (Vergence is the former name of 37 CFR 1.47(b) applicant Eliminator), as well as a statement executed by the inventor in which he confirms that he has "disposed of my Intellectual Property for the Eliminator to Eliminator Holdings Limited (Previously known as Vergence Holdings Limited) and confirm that I have no further personal rights to the Eliminator Intellectual Property." However, on the present record, these materials cannot be interpreted as representing an assignment of the invention underlying the present application, or an agreement to assign such invention. Specifically, the materials do not refer to the underlying priority application (which was filed well before these materials were executed and therefore could have been listed, if the materials were intended to cover such application), nor is "the intellectual property rights in the Eliminator" referred to in such materials a specific enough description of the transferred property to permit the USPTO to conclude, on the present record, that the invention underlying the present application was assigned pursuant to such materials (See MPEP 409.03(f): 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).[1]

Absent an acceptable assignment or agreement to assign, petitioner must demonstrate a proprietary interest in the application obtained other than through direct assignment or an agreement to assign. The requirements for such a showing are also set forth in the MPEP:

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision

[1] Paragraph 12 of the statement of Sandra Wilcocks asserts that "it would have been understood by all parties at the date of execution of this agreement that the Eliminator Intellectual property referred to" included the patent portfolio including the present application. However, this unsupported statement from a non-party to the agreement is insufficient to support a conclusion that the agreement provided encompasses the present application.

(if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner here has not provided a legal memorandum demonstrating that 37 CFR 1.47(b) applicant Eliminator has a proprietary interest in the invention based on applicable law.

Based on the above, item (5) is not considered satisfied on the present record.

Regarding item (6), the petition does not include the required statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is 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), (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).

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

14 DEC 2007

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:	:	
MASON, Rex, Allan	:	DECISION ON RENEWED
U.S. Application No.: 10/576,705	:	PETITION UNDER
PCT No.: PCT/NZ2004/000259	:	37 CFR 1.47(b)
International Filing Date: 15 October 2004	:	
Priority Date: 21 October 2003	:	
Attorney's Docket No.: JAMES117.001APC	:	
For: ANTI-FOAMING DEVICE	:	

In a decision mailed by this Office on 31 August 2007, applicants' petition under 37 CFR 1.47(b) for acceptance of the application without the signature of sole inventor Rex Allen MASON was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 30 November 2007, applicants filed a response to the 31 August 2007 decision (with required one-month extension fee); the response is treated herein as a renewed petition.

Applicants' 30 November 2007 submission includes a declaration executed by the previously non-signing inventor Rex Allen MASON. Because the inventor has been located and is not refusing to execute the application, the petition under 37 CFR 1.47(b) requesting acceptance of the declaration without the signature of Rex Allen MASON is **DISMISSED AS MOOT**.

A review of the declaration filed on 31 August 2007 reveals, however, that this declaration is not acceptable as submitted. Specifically, the declaration includes an alteration to the inventor's residence and post office address that has not been initialed and dated by the signing inventor. As set forth in section 605.04(a) of the MPEP: "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." Therefore, a newly executed declaration is required here.

The submission of the executed but non-compliant declaration is considered a defective response to the previous decision.

Applicant is required to submit an acceptable declaration executed by inventor Rex Allen MASON that satisfies the requirements of 37 CFR 1.497 within **ONE (1) MONTH** from the mail date of this decision or within the time remaining in the response period set forth in the previous decision mailed 31 August 2007, whichever is the longer. Extensions of the one-month time limit above may **not** be granted under 37 CFR 1.136(a); however, the period for response set forth in the previous decision mailed 31 August 2007 may be extended under 37 CFR 1.136(a).

Failure to file a proper and timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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19 JUN 2008

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
MASON, Rex, Allan
U.S. Application No.: 10/576,705
PCT No.: PCT/NZ2004/000259
International Filing Date: 15 October 2004
Priority Date: 21 October 2003
Attorney's Docket No.: JAMES117.001APC
For: ANTI-FOAMING DEVICE

COMMUNICATION

In a decision mailed herein on 14 December 2007, applicant's petition under 37 CFR 1.47(b) was dismissed as moot based on applicant's submission of a declaration executed by the previously non-signing inventor, Rex Allan MASON. However, the decision indicated that the declaration filed by applicant was not acceptable under 37 CFR 1.497. Specifically, the decision indicated that the declaration was defective due to the presence of a handwritten alteration that had not been initialed and dated by the inventor. The decision required applicant to file a revised declaration in compliance with 37 CFR 1.497.

On 22 February 2008, applicant filed a revised declaration, accompanied by the required four-month extension fee. The revised declaration is executed by the inventor and complies with the requirements of 37 CFR 1.497.

This application is being forwarded 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 22 February 2008.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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05 JUN 2007

Surinder Sachar
Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

In re Application of :
SEINO *et al* :
Application No.: 10/576,721 :
PCT No.: PCT/JP2004/015231 : NOTIFICATION OF
Int. Filing Date: 15 October 2004 :
Priority Date: 23 October 2003 : DEFECTIVE RESPONSE
Atty. Docket No.: 290087US0PCT :
For: METHOD FOR PURIFYING :
LITHIUM SULFIDE :

This application is before the Office of PCT Legal Administration for consideration of matters under 35 U.S.C. 371, and is in response to applicants' "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 USC 371" filed in the U.S. Patent and Trademark Office (USPTO) on 26 January 2007.

BACKGROUND

On 15 October 2004, applicants filed international application No. PCT/JP2004/015231 which claimed a priority date of 23 October 2003, and which designated the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was set to expire 30 months from the priority date, i.e. 23 April 2006.

On 21 April 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 for providing the oath or declaration later than 30 months from the priority date.

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 or declaration in compliance with 37 CFR 1.497 was required.

On 26 January 2007, applicants filed a declaration of the inventors.

On 16 May 2007, the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating that applicants had satisfied the requirements for entry into the national stage.

DISCUSSION

A review of the application file reveals that the declaration of the inventors is not incompliance with 37 CFR 1.497. Specifically, the first named applicant on the declaration, Yoshikatsu Seino, is not the same as the first named applicant in the international application Yoshikatsu Kiyono, and applicant has not provided any explanation or petition with regard to the discrepancy.

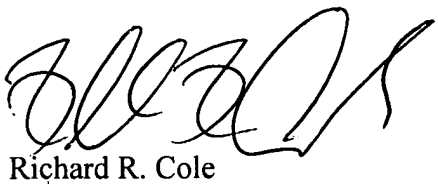
Therefore, in that the declaration is not acceptable, the application can not be held to be in compliance with 35 U.S.C. 371, and as such the Form PCT/DO/EO/903 was mailed in error.

CONCLUSION

For the reasons above, the Form PCT/DO/EO/903 mailed 16 May 2007, is hereby **VACATED**.

A proper response must be filed within one (1) month of this Notification. Extensions of time to this time period under 37 CFR 1.136(a) are NOT available. However, applicants may submit a response within the time remaining under the time period set in the Form PCT/DO/EO/905 mailed 04 December 2006.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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ALEXANDRIA, VA 22313-1450
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27 SEP 2007

Surinder Sachar
Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

In re Application of :
SEINO *et al* :
Application No.: 10/576,721 :
PCT No.: PCT/JP2004/015231 :
Int. Filing Date: 15 October 2004 : DECISION ON PETITION
Priority Date: 23 October 2003 :
Atty. Docket No.: 290087US0PCT :
For: METHOD FOR PURIFYING :
LITHIUM SULFIDE :

This is in response to applicants' "PETITION UNDER 37 C.F.R 1.182" filed in the U.S. Patent and Trademark Office (USPTO) on 03 July 2007, which requests that the name of the first named inventor be corrected to Yoshikatsu Seino.

BACKGROUND

On 07 June 2007, this office mailed a NOTIFICATION OF DEFECTIVE RESPONSE indicating that the declaration filed 26 January 2007, was not in compliance with 37 CFR 1.497.

On 03 July 2007, applicants filed the present petition which was accompanied by, *inter alia*, the requisite petition fee and a declaration of Yoshikatsu Seino.

DISCUSSION

A review of the present response reveals that applicants are urging that the name of the first named inventor was listed as Yoshikatsu Kiyono "in the International Application due to an inadvertent error." However, applicants have provided no explanation as to the specifics concerning this error, e.g., how and when was the error made, when was the error discovered, etc. It is also noted that inventor Seino's statement does not set forth that the error was made without any deceptive intent on inventor Seino's part. Absent such an explanation and statement the petition may not be properly be granted at this time.

CONCLUSION

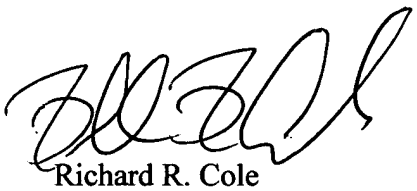
For the reasons above, the petition is **DISMISSED** without prejudice.

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.

A proper response must include a statement by someone having firsthand knowledge of the facts concerning the error in the naming of the first named inventor in the filing of the International Application and a statement by inventor Seino setting forth that the error was made without any deceptive intent on inventor Seino's part.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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28 FEB 2008

Surinder Sachar
Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
SEINO *et al*	:	
Application No.: 10/576,721	:	
PCT No.: PCT/JP2004/015231	:	
Int. Filing Date: 15 October 2004	:	DECISION ON PETITION
Priority Date: 23 October 2003	:	
Atty. Docket No.: 290087US0PCT	:	
For: METHOD FOR PURIFYING	:	
LITHIUM SULFIDE	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.182" filed in the U.S. Patent and Trademark Office (USPTO) on 27 November 2007. The petition was accompanied by declarations by inventor Seino and Junko Maruyama in support of the petition The petition is **GRANTED** as discussed below.

On 27 September 2007, this Office mailed a decision which dismissed applicants' petition under 37 CFR 1.182 to record a change in the name of one of the inventors. The petition was dismissed on the grounds that the statement setting forth the facts with respect to the name change was insufficient.

A review of the present submission reveals that applicants have now submitted an acceptable statement.

The application has an international filing date of 15 October 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **26 January 2007**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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APR 07 2008

OFFICE OF PETITIONS

In re Application of :
Rikki Peter Alexander, et al. :
Application No. 10/576,731 : DECISION ON PETITION
Filed: April 20, 2006 : TO WITHDRAW
Attorney Docket No. CELL-0314 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 10, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn, LLP has been revoked by the assignee of the patent application on December 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL S. GREENFIELD
MCDONNELL, BOEHNEN, HULBERT & BERGHOFF, LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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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.
10/576,731	04/20/2006	Rikki Peter Alexander	07-1010-WO-US	8274

20306 7590 04/29/2010

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

EXAMINER	
MORRIS, PATRICIA L	

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
04/29/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APR 2 9 2010

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of :
Alexander et al.
Serial No.: 10/576,731 : Decision on Petition
Filed: April 20, 2006
Attorney Docket No.: **07-1010-WO-US** :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on March 19, 2010, to withdraw the final rejection of December 18, 2009.

BACKGROUND

A 3-way restriction requirement was mailed to applicants on March 3, 2009.

Applicants made an election to the restriction requirement on April 3, 2009.

The examiner mailed to applicants a non-final Office action on June 12, 2009. Claims 1, 4, 6 and 9 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 4, 6 and 9 were rejected under 35 USC 112, first paragraph, as being non-enabling. Claims 11-25 were withdrawn from consideration. Claims 1, 4, 6 and 9 were indicated as allowable if amended to overcome the rejections under 35 USC 112. Claims 2, 3, 5, 7 and 8 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

On September 8, 2009, applicants submitted an amendment with remarks and amendments to the claims.

The examiner mailed to applicants a final Office action on December 18, 2009. Claim 1 was rejected under 35 USC 112, second paragraph, as being indefinite. Claim 1 was indicated as allowable if amended to overcome the rejections under 35 USC 112. Claims 2 - 9 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

On January 14, 2010, applicants submitted an after final amendment including claim amendments.

On January 26, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered as applicant have failed to cancel the non-elected compounds or claims 11-25. The examiner noted the amendments to the claims overcame the 35 USC 112, second paragraph, rejection. On February 8, 2010, applicants submitted a second after final amendment including claims amendments and remarks.

On February 18, 2010, the examiner mailed to applicants an advisory action indicating that the second after final amendment would not be entered because applicants have failed to cancel the non-elected compounds.

On March 19, 2010, applicants submitted a third after final amendment with remarks.

On March 19, 2010, applicants concurrently submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

In the petition, applicants "respectfully submit that the search and examination procedure employed was inconsistent with Patent Office guidelines and deprived the applicants of their right to a full search of the claims. Therefore, the final rejection should be withdrawn and the claims searched to their full scope, with respect to the scope of the claim element R^2. Having found no prior art that invalidated the claim as limited even to what the applicants submit is an overly narrow construction of R^2 based on the provisionally elected species, the search should have been expanded to encompass the full scope of R^2."

Specifically, applicants argue the proper procedure for examining Markush claims is set forth in MPEP 803.02, a search of a Markush claim (which may include independent and distinct inventions) is to begin with the elected species and, if the species is allowable over the prior art, expanded to the full scope of the claims allowable over the prior art. The search may be stopped short of the full scope only if prior art is found that renders the claims unpatentable as anticipated or obvious; rejections under 35 USC § 112 are not a proper basis for limiting the search to the elected species. This is consistent with the policy of compact prosecution, which requires simultaneous examination of the claims as to all bases of patentability.

Because an improper search and examination procedure was employed and the applicants denied the search to which they were entitled, the applicants respectfully submit that the Office should withdraw the final rejection and search the claims to the scope permitted by the prior art, up to the full scope of the claims. Should prior art be identified, a non-final action would be

appropriate to permit the applicants an opportunity to amend the claims and/or argue in favor of patentability. If the prior art rejection is thereby overcome, the search should be expanded once again, as is consistent with the example provided in MPEP § 803.02.

Applicants' arguments have been accorded careful consideration and are persuasive. Accordingly, prosecution will be reopened.

DECISION

The petition is **GRANTED**.

The Office action mailed December 18, 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 amendments of January 14, 2010, February 8, 2010 and March 19, 2010 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

The application will be forwarded to the examiner for preparation of a action(s) wherein proper search and examination procedures are followed.

Should there be any questions about this decision, please contact Special Program Examiner Marianne Seidel, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Acting Director, Technology Center 1600

05 JUN 2006

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

George H. Fairchild
MINERALS TECHNOLOGIES INC.
1 Highland Avenue
Bethlehem, PA 18017-9482

In re Application of :
CARLHOFF *et al* :
U.S. Application No.: 10/576,735 :
PCT No.: PCT/EP2003/012349 :
Int. Filing Date: 05 November 2003 : **DECISION**
Priority Date: 19 December 2002 :
Attorney's Docket No.: DN 02-019 :
For: A PROCESS FOR KEEPING A :
TUYERE PASSING THROUGH A :
METALLURGICAL VESSEL FREE :
FROM A SKULL :

Applicants' "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed with the national stage papers on 21 April 2006 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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P.O. Box 1450
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

2/12/09

In re Application of:
MOSHAL, JOHN HILLEL
Serial No.: 10/576,743
Filed: Apr. 21, 2006
Docket: 06-278
Title: BACKUP RANDOM NUMBER GENERATOR GAMING SYSTEM

DECISION ON PETITION TO WITHDRAW OF HOLDING OF FINALITY

This is a decision on the petition filed on January 30, 2009 to withdraw the finality of the Office action of November 24, 2008. This decision is being considered pursuant to 37 CFR 1.181. No fee is required under this section.

The petition is **DISMISSED AS UNTIMELY**.

The record shows that:

1. In response to applicant's amendment adding new clams 26-40 of February 8, 2008, the examiner issued a final Office action on April 24, 2008 stating that the amendment necessitated the new grounds of rejection. Claims 26-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto (US 5,989,121) in view of Pease et al (5,326,104) and Crumby (US 6,533,664 B1).

2. On July 16, 2008, the applicant filed Notice of Appeal and a Pre-Brief Conference Request. In the applicant's Pre-Brief Conference Request, the applicant did not argue and question the propriety of the final rejection of April 24, 2008.

3. In response to the applicant's Pre-Brief Conference Request, the panel mailed a Notice of Panel Decision informing the applicant that the rejection is withdrawn and a new Office action will be mailed.

4. Pursuant to the Notice of Panel Decision, the examiner issued a new final rejection on November 24, 2008 rejecting claims 26-40 under 35 U.S.C. 103(a) as being unpatentable over Coile et al (US 6,108,300) in view of Holch et al (US 5,674,128).

5. On January 30, 2009, the present petition to withdraw finality of the last Office action of November 24, 2008 was filed.

Applicable Rules or Statutes

37 CFR 1.181(f):
The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of November 24, 2008. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3714 awaiting applicant's response to the Office action mailed on November 24, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY

Robert Olszewski, Director
Technology Center 3700

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 27 2008

OFFICE OF PETITIONS

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

In re Application of	:	
Fabrizio Gavelli et al.	:	
Application No. 10/576,770	:	DECISION ON PETITION
Filed: April 21, 2006	:	PURSUANT TO
Attorney Docket Number: 102792-572 (11348P1 US)	:	37 C.F.R. § 1.137(a)
Title: ARTICLE AND METHOD	:	

This is a decision on the petition filed February 1, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 4, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 5, 2007. A notice of abandonment was mailed on December 6, 2007.

Section 711.03(c)(I)(A) 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).

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted a response to the non-final Office action. The petition fee will be charged to Petitioner's Deposit Account in due course. As such, Petitioner has met requirements (1) and (2) of Rule 1.137(a). The fourth requirement is not applicable, as no terminal disclaimer is required.

Regarding the third requirement of Rule 1.137(a), Petitioner has not established that the entire period of delay was unavoidable, pursuant to the discussion below.

Petitioner has asserted that the Office action was not received at the correspondence address of record[1], and has provided a copy of the master docket report showing all replies docketed for a date three months from the mail date of the allegedly nonreceived Office action.

However, it does not appear that Petitioner has set forth 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.

Moreover, it does not appear that Petitioner has included a **statement describing the system** used for recording an Office action received at the correspondence address of record with the USPTO. Petitioner is reminded that any such statement that is

1 See paragraph 4 of Manfredi affidavit.

provided on renewed petition should establish that the docketing system is sufficiently reliable.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[6]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

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875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Fabrizio Gavelli et al.	:	
Application No. 10/576,770	:	DECISION ON RENEWED PETITION
Filed: April 21, 2006	:	PURSUANT TO
Attorney Docket Number: 102792-572 (11348P1 US)	:	37 C.F.R. § 1.137(a)
Title: ARTICLE AND METHOD	:	

This is a decision on the renewed petition filed June 25, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

The renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 4, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 5, 2007. A notice of abandonment was mailed on December 6, 2007.

Section 711.03(c)(I)(A) 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).

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition was filed on February 1, 2008, and was dismissed via the mailing of a decision on May 27, 2008, for failure to meet the third requirement above. The decision indicated that requirements (1) and (2) of Rule 1.137(a) had been met, and that the fourth requirement is not applicable, as no terminal disclaimer is required.

With this renewed petition, Petitioner has included a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO.

Petitioner will note that on the third page of the decision, the following deficiency with Petitioner's showing was set forth:

> …it does not appear that Petitioner has set forth that a **search** (emphasis included) 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.

With this renewed petition, it has been suggested that the "Due Date List By Date" has been reviewed, however this renewed petition appears to be silent as to any search that might have been performed of the file jacket or the application contents. As such, it does not appear that either of these searches has been performed.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled

"Second Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[5]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of :
Fabrizio Gavelli et al. :
Application No. 10/576,770 : DECISION ON SECOND RENEWED
Filed: April 21, 2006 : PETITION PURSUANT TO
Attorney Docket Number: 102792-572 (11348P1 US) : 37 C.F.R. § 1.137(a)
Title: ARTICLE AND METHOD :

This is a decision on the second renewed petition filed September 10, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

The second renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 4, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 5, 2007. A notice of abandonment was mailed on December 6, 2007.

Section 711.03(c)(I)(A) 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).

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on February 1, 2008, and was dismissed in the decision mailed on May 27, 2008, for failure to meet the third requirement above. The decision indicated that requirements (1) and (2) of Rule 1.137(a) had been met, and that the fourth requirement is not applicable, as no terminal disclaimer is required.

A renewed petition was filed on June 25, 2008, and was dismissed in the decision mailed on July 14, 2008. The decision indicated that the third requirement of Rule 1.137(a) had not been satisfied, due to the fact that the renewed petition was silent as to any search that might have been performed of the file jacket or the application contents.

With this second renewed petition, Petitioner has indicated that a search of the practitioner's record(s), including both the file jacket and the application contents, indicates that the Office action was not received.

Consequently, the third requirement of Rule 1.137(a) has been met.

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 and remarks that were received on February 1, 2008 can be processed in due course.

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 Senior Attorney Paul Shanoski at (571) 272-3225.[1] All other inquiries concerning examination procedures should be directed to the Technology Center.

/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 any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

19 DEC 2006

Mani Adeli
Stattler Johansen & Adeli, LLP
1875 Century Park East, Suite 1360
Los Angeles, CA 90067

In re Application of	:	
SHAHIDI	:	
U.S. Application No.: 10/576,781	:	DECISION ON PETITION
PCT No.: PCT/US04/35024	:	
Int. Filing Date: 21 October 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 October 2003	:	
Attorney Docket No.: STAN.P0008PCTUS	:	
For: SYSTEMS AND METHODS FOR INTRA-OPERATIVE TARGETING	:	

The petition to revive under 37 CFR 1.137(b) filed 01 December 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the U.S. Basic National Fee (from the earliest priority date) was unintentional" is being interpreted to mean that the entire delay in providing payment of the full U.S. Basic National Fee from the due date for paying the fee until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventor is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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CIBA SPECIALTY CHEMICALS COMPANY
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005

30 MAY 2006

In re Application of:
VAN DER SCHAAF, et al
U.S. Application No.: 10/576,784
PCT No.: PCT/EP2004/052449
International Filing Date: 06 October 2004
Priority Date: 16 October 2003
Atty Docket No.: LS/95-22963/A/PCT
For: CRYSTALLINE FORM OF FLUVASTATIN SODIUM

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 21 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 03-1935 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 21 April 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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MAR 16 2007

FRANK J UXA
4 VENTURA
SUITE 300
IRVINE CA 92618

In re Application of	:
Mary J. Champion	:
Serial No.: 10/576,803	: PETITION TO MAKE SPECIAL
Filed: April 21, 2006	:
Attorney Docket No.: D-3150	:

This is in response to the petition filed April 21, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement.

Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Loris Amathieu	: DECISION ON REQUEST FOR
Patent Number	: 7591893	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **660** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Kunihiko Fukuchi	: DECISION ON REQUEST FOR
Patent Number	: 7601994	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/576,819	: 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 **625** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

14 JUN 2006

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ALBIHNS STOCKHOLM AB
BOX 5581, LINNEGATAN 2
114 85 STOCKHOLM
SWEDEN

In re Application of: Ake Ehrlund	:	
Application No.: 10/576,820	:	
PCT Application No.: PCT/SE02/01600	:	DECISION ON
Int. Filing Date: 06 September 2002	:	PETITION UNDER
Priority Date Claimed: 30 May 2002	:	37 CFR 1.181
Attorney Docket No.: 68243-77834	:	
For: CHILD RESISTANT PACKAGE WITH SLIDABLE TRAY SECTION	:	

This decision is in response to the petition under 37 CFR 1.181 filed on 24 April 2006, requesting entry into the national stage from international application No. PCT/SE02/01600 in accordance with 35 U.S.C. 371. The petition is **GRANTED**.

BACKGROUND

On 06 September 2002, applicant filed international application PCT/SE02/01600, which claims priority to a Swedish application filed on 30 May 2002. A demand for international preliminary examination, in which the United States was elected, was timely filed on 28 November 2003. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 30 November 2004.

On 24 April 2006, applicant filed the present petition accompanied by, *inter alia*, a TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371 (Form PTO-1390) with authorization to charge the basic national fee, a copy of the international application as filed (35 U.S.C. 371(c)(2)) and a copy of a date stamped return receipt post card. The post card receipt for a "US NATIONAL PHASE APPLICATION" lists the above international application number and attorney docket number, and bears a date stamp by the United States Patent and Trademark Office of "DT03 Rec'd PCT/PTO 29 NOV 2004."

DISCUSSION

A review of the image file wrapper (IFW) of the application indicates that the papers filed on 29 November 2004 have been located and associated with the IFW. However, the papers are absent a transmittal letter (Form PTO-1390).

Applicant provides sufficient evidence that the submissions required to begin entry into the national stage were timely filed in the United Sates Patent and Trademark Office on 29 November 2004. As provided in MPEP 505, "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." The copy of the postcard receipt submitted with the petition lists, *inter alia*, a "Cover sheet (2 pages)." The petition includes a statement by counsel referring to "herewith enclosed copies of the originally filed documents," from which it may be reasonably concluded that the 2-page transmittal letter (Form PTO-1390) submitted on 24 April 2006 is a copy of the originally filed "Cover sheet (2 pages)." The transmittal letter submitted on 24 April 2006 includes an authorization to charge the requisite national filing fee, and an inspection of the application file indicates that the requisite national filing fee has been charged accordingly. In view of the return receipt post card and counsel's statement that the enclosed copies are copies of the originally filed documents, along with payment of the national filing fee, the submissions required to begin entry into the national stage are accepted as having been timely submitted on 29 November 2004.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 for entry into the national stage from international application No. PCT/SE02/01600 is **GRANTED**. The submission filed on 24 April 2006, specifically the transmittal letter (Form PTO-1390), is hereby accepted as having been timely filed on 29 November 2004.

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 PTO/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497, any applicable claim fees, and the surcharge for filing the oath or declaration later than thirty months from the priority date.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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07 SEP 2007

James W. Kerr
InBev S.A.
303 Richmond Street
London ON N6B2H-8 CA
CANADA

In re Application of:
GRIMWADE, Stephen, J., et al
U.S. Application No.: 10/576,821
PCT No.: PCT/IB2004/003476
International Filing Date: 22 October 2004
Priority Date Claimed: 24 October 2003
Atty Docket No.: 6.70.1058 PCT/IB-US
For: ALCOHOLIC BEVERAGE DISPENSING APPLIANCE WITH GAS CONNECTION

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:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

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 03 January 2007 in the form of an executed declaration in compliance with 37 CFR 1.497. 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

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25 SEP 2007

James W. Kerr
InBev S.A.
303 Richmond Street
London, Ontario, Canada N6B 2H8

In re Application of :
ANDERSON, IAN :
Application No.: 10/576,822 : DECISION ON PETITION
PCT No.: PCT/IB04/03477 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 22 October 2004 :
Priority Date: 24 October 2003 :
Attorney Docket No.: 6701059PCTIBUS :
For: ALCOHOL BEVERAGE BAG :

The petition to revive 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 reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the required reply and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being 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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Pengju Kang	: DECISION ON REQUEST FOR
Patent Number	: 7600613	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **705** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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29 OCT 2008

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Mark C. Reichel
ICE MILLER LLP
One American Square
Suite 3100
Indianapolis, IN 46262-0200

In re Application of	: DECISION ON
LENEAU et al	:
Application No.: 10/576,841	:
PCT No.: PCT/US2004/034770	:
Int. Filing Date: 20 October 2004	: PETITION UNDER
Priority Date: 22 October 2003	:
Attorney's Docket No.: P00902-US-01	:
For: COLOSTRUM COMPOSITIONS AND	:
METHODS	: 37 CFR 1.181

This Decision is in response to applicant's "REQUEST TO WITHDRAW AND REISSUE OFFICE ACTION," filed on 21 July, which is being treated as a petition under 37 CFR 1.181 indicating that the Article 34 amendments were not considered by the examiner in the examiner's office action dated June 27, 2008.

BACKGROUND

On 20 October 2004, this international application was filed, claiming an earliest priority date of 22 October 2003.

On 20 April 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); U.S.C. 371(c)(2); and a declaration as required by 35 U.S.C. 371(c)(4).

On 20 April 2006, the DO/EO/US mailed a "NOTIFICATION OF ACCEPTENCE OF APPLICATION UNDER 35 U.S.C. 371" (Form PCT/DO/EO/909), which indicated a 20 April 2006 date of receipt of 35 USC 371(c)(1), (c)(2), and (c)(4) requirements.

On 27 June 2008, examiner mailed an office action that did not consider the Article 34 amendments filed during the international stage.

A review of the file shows that applicants timely submitted Article 34 amendments with the International Preliminary Examination Authority (IPEA/US) on 17 August 2005.

In view of the above, applicants' amendments were timely communicated to the IPEA/US. Accordingly, the instant application has been improperly examined since the examiner did not consideration the Article 34 amendments. Therefore, the office action mailed on 27 June 2008 is **Vacated.** A new decision will be issued considering the Article 34 amendments.

DECISION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The Office Decision mailed on 27 June 2008 has been **Vacated**.

This application will be forwarded to the proper Technology Center 1600 for a new decision taken into consideration the Article 34 amendments.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,874	05/01/2007	Maria Das Gracas Ribeiro	358-15	4875

EXAMINER

7590 12/20/2007

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
12/20/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

04 FC:1617 -130.00 OP

Adjustment date: 12/13/2007 RCLEMONS
05/04/2006 DELAYARD 00000006 10576874
01 FC:1631 -300.00 OP

02 FC:1633 -200.00 OP

22 MAY 2006

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Bartlett & Sherer
103 South Shaffer Drive
New Freedom PA 17349

In re Application of LAURENCE J. AYLING Serial No.: 10/576,893 PCT App. No.: PCT/GB04/03501 Int'l Filing Date: 16 August 2004 Priority Date: 16 August 2003 Attorney Docket No.: 593-PCT-US For: METHOD AND APPARATUS FOR DRILLING	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 April 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 including issuance of a Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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LAW OFFICE OF GEROW D. BRILL
20 OAKMONT CIRCLE
NEW FREEDOM, PA 17349-832

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FEB 01 2010

In re Application of :
AYLING, LAURENCE JOHN :
Application No. 10/576,893 : DECISION ON PETITION
Filed: April 24, 2006 :
Attorney Docket No. 593-PCT-US :

This is a decision on: (1) the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2009, to revive the above-identified application; and (2) the petition to the Director of the United States Patent and Trademark Office (Director) under either 37 CFR 1.182 (i.e., questions not specifically provided for) or 37 CFR 1.183 (i.e., suspension of rules) to waive the requirement for payment of the petition fee covered by the petition under 37 CFR 1.137(b) for revival of an application for patent abandoned unintentionally.

The petition under 37 CFR 1.137(b) for revival of an application for patent abandoned unintentionally is **GRANTED**.

The petition to the Director of the United States Patent and Trademark Office (Director) under either 37 CFR 1.182 (i.e., questions not specifically provided for) or 37 CFR 1.183 (i.e., suspension of rules) to waive the requirement for payment of the petition fee covered by the petition under 37 CFR 1.137(b) for revival of an application for patent abandoned unintentionally is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2008, which set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned as of midnight on August 21, 2008.

The petition for revival of an application for patent abandoned unintentionally satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the payment of the non-small entity issue and publication fees of

$1,810.00, (2) the non-small entity petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

In response to the petition to the Director under either CFR 1.182 or 37 CFR 1.183 requesting waiver of payment of the petition fee under 37 CFR 1.137(b), it is noted that on January 31, 2008, Applicant's attorney filed a paper entitled "Change of Attorney or Agent's Address in Application" in which Applicant's attorney indicated his Customer No. was "76,891". Accordingly, the United States Patent and Trademark Office changed Applicant's correspondence address to the address associated with Customer No. 76,891. The Notice of Allowance and Fee(s) Due, mailed May 21, 2008, went to the address associated with Customer No. 76,891 as instructed by Applicant's attorney. Applicant's attorney argues that "[i]t is Applicant's opinion that when the person completing the Notice of Allowance and Fee(s) form had the incorrect address come up (Sardano) he or she did not verify a match between Customer Number address the correct address." However, it is noted that the customer number on the "Change of Attorney or Agent's Address in Application" form filed January 31, 2008 controls what address is associated with the present application, not any address or customer number on other correspondence sent to the United States Patent and Trademark Office. Since it does not appear that the United States Patent and Trademark Office mailed the Notice of Allowance and Fee(s) Due to the wrong address, petitioner is being charged the petition fee under 37 CFR 1.17(m) of $1,620.00 and the petition fee under 37 CFR 1.17(f) of $400.00.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571)-272-3687.

This application is being referred to Technology Center AU 3672 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight
Supervisor
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Marc Peuker	: DECISION ON REQUEST FOR
Patent Number	: 7607534	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Séverine Aubonnet	: DECISION ON REQUEST FOR
Patent Number	: 7584753	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,912	: 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 **807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

19 MAR 2007

In re Application of	:	
James et al.	:	
Application No.: 10/576,936	:	DECISION
PCT No.: PCT/GB04/04186	:	
Int. Filing Date: 01 October 2004	:	ON
Priority Date: 25 October 2003	:	
Attorney Docket No.: 066079-5128	:	PETITION
For: Process For Etching Metal And Alloy Surfaces	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 19 January 2007.

BACKGROUND

This international application was filed on 01 October 2004, claimed an earlier priority date of 25 October 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 19 May 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 25 April 2006. Applicants filed *inter alia* the basic national fee on 24 April 2006.

On 30 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 and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Petitioner indicates that joint inventor David John Cottrell is deceased, but that previously he allegedly refused to execute the declaration. Thus, treatment under 37 CFR 1.47(a) is appropriate. 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 the petition fee on 19 January 2007.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of now-deceased joint inventor David John Cottrell be excused because he "has refused to sign the declaration and related assignment of this application." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands

> exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Counsel refers to an accompanying "declaration by Amanda J. Collier" to show that Mr. Cottrell refused to execute the declaration. Ms. Collier states that, "On April 21, 2006, I sent the application with declaration and assignment to David Cottrell at his address of record in the company files..." for signature, followed by a "reminder" on 07 June 2006, but that she later learned that Mr. Cottrell "had moved." After learning that Mr. Cottrell had "moved," Ms. Collier states that she sent him further "reminder" letters, and that Mr. Cottrell "responded to the aforementioned letters by e-mail on September 1, 2006." However, it is not clear whether Mr. Cottrell was actually presented with an oath or declaration and a complete copy of this application, since it is not clear whether he received the correspondence sent to his previous address. Moreover, it is not clear whether a copy of this application was sent to him, since Ms. Collier's correspondence does not explicitly recite an application number; instead, it merely cites a case reference number which does not correspond to the present docket number of this application. Moreover, it is unclear whether Mr. Cottrell's email to Ms. Collier, dated 01 September 2006, evidences a "refusal" to execute the application. Rather, the email suggests that Mr. Cottrell did not understand his "interest in this area," suggesting that he believed himself to be "no longer required so I don't see what the issue is." This admits the possibility that Mr.

Cottrell may have been willing to execute the declaration if he had been apprised of the reasons his participation was still relevant and necessary. For all of these reasons, the evidence of record does not presently establish a "refusal" within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition does not include an affirmative and explicit statement of Mr. Cottrell's last known address. Though the supporting documentation refers to at least two addresses for Mr. Cottrell, and though Mr. Cottrell is understood to be deceased, neither of these circumstances satisfies or obviates requirement (3). Nor does the reference in the petition to Mr. Cottrell's "former residence" being listed in the declaration, since petitioner is not clearly referring to a "last known" address, and since the "Declaration of Amanda Collier" refers to more than one former address for Mr. Cottrell. To the extent that petitioner considers the address given in paragraph 21 of Ms. Collier's "Declaration..." to be Mr. Cottrell's "last-known" address, a statement to that effect by petitioner would be appropriate.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventor Mark Robert James on behalf of himself and non-signing joint inventor David John Cottrell. This declaration is acceptable for purposes of satisfying 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

11 JUN 2007
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of	:	
James et al.	:	
Application No.: 10/576,936	:	DECISION
PCT No.: PCT/GB04/04186	:	
Int. Filing Date: 01 October 2004	:	ON
Priority Date: 25 October 2003	:	
Attorney Docket No.: 066079-5128	:	PETITION
For: Process For Etching Metal And Alloy Surfaces	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 26 April 2007.

DISCUSSION

In a Decision mailed on 19 March 2007, the petition under 37 CFR 1.47(a) filed on 19 January 2007 was dismissed without prejudice because

> Counsel refers to an accompanying "declaration by Amanda J. Collier" to show that Mr. Cottrell refused to execute the declaration.. Ms. Collier states that, "On April 21, 2006, I sent the application with declaration and assignment to David Cottrell at his address of record in the company files..." for signature, followed by a "reminder" on 07 June 2006, but that she later learned that Mr. Cottrell "had moved." After learning that Mr. Cottrell had "moved," Ms. Collier states that she sent him further "reminder" letters, and that Mr. Cottrell "responded to the aforementioned letters by e-mail on September 1, 2006." However, it is not clear whether Mr. Cottrell was actually presented with an oath or declaration and a complete copy of this application, since it is not clear whether he received the correspondence sent to his previous address. Moreover, it is not clear whether a copy of this application was sent to him, since Ms. Collier's correspondence does not explicitly recite an application number; instead, it merely cites a case reference number which does not correspond to the present docket number of this application. Moreover, it is unclear whether Mr. Cottrell's email to Ms. Collier, dated 01 September 2006, evidences a "refusal" to execute the application. Rather, the email suggests that Mr. Cottrell did not understand his "interest in this area," suggesting that he believed himself to be "no longer required so I don't see what the issue is." This admits the possibility that Mr. Cottrell may have been willing to execute the declaration if he had been apprised of the reasons his participation was still relevant and necessary. For all of these reasons, the evidence of record does not presently establish a "refusal" within the meaning of 37 CFR 1.47(a).
>
> Regarding requirement (3), the petition does not include an affirmative and explicit statement of Mr. Cottrell's last known address. Though the supporting documentation refers to at least two addresses for Mr. Cottrell, and though Mr. Cottrell is understood to be deceased, neither of these circumstances satisfies or obviates requirement (3). Nor does the reference in the petition to Mr. Cottrell's

"former residence" being listed in the declaration, since petitioner is not clearly referring to a "last known" address, and since the "Declaration of Amanda Collier" refers to more than one former address for Mr. Cottrell. To the extent that petitioner considers the address given in paragraph 21 of Ms. Collier's "Declaration..." to be Mr. Cottrell's "last-known" address, a statement to that effect by petitioner would be appropriate.

In response, petitioner has filed a "Supplemental Declaration of Amanda Collier" which confirms that Mr. Cottrell's address was the 12 Linksway address, and clarifies that the case reference number appearing on the correspondence she sent him at that address (SMC 60622/UST) corresponds to the instant U.S. national stage application. Ms. Collier further clarifies the context of Mr. Cottrell's 01 September 2006 email. It is noted that Mr. Collier's email indicates that he no longer resides in England, but it is clear that he received the correspondence in issue (icluding the copy of the application), and that the 12 Linksway address was his last address known to petitioner. Based on the totality of the showing now presented, it would be appropriate to conclude the Mr. Cottrell refused to execute this application within the meaning of 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The $130.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 50-0310, as authorized by the instant petition.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor's last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **19 January 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

11 JUN 2007

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David Cottrell
12 Linksway
Upton-by-Chester
Chester CH2 1EA
UNITED KINGDOM

In re Application of
James et al.
Application No.: 10/576,936
PCT No.: PCT/GB04/04186
Int. Filing Date: 01 October 2004
Priority Date: 25 October 2003
Attorney Docket No.: 066079-5128
For: Process For Etching Metal
And Alloy Surfaces

Dear Mr. Cottrell:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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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 (David COTTRELL) 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/GB2004/004186) and was filed on October 1, 2004 in the names of David COTTRELL and Mark JAMES for the invention entitled PROCESS FOR ETCHING METAL AND ALLOY SURFACES. The national stage application number is 10/576,936 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 19, 2007.

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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	: Zoran Kostic	: DECISION ON REQUEST FOR
Patent Number	: 7639732	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/576,966	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **550** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

0 4 APR 2008

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HOLLINGSWORTH & FUNK
8009 34TH AVENUE SOUTH,
SUITE 125
MINNEAPOLIS MN 55425

In re Application of	
RANTAPUSKA, Olli et al.	
Application No.: 10/576,970	
PCT No.: PCT/IB2003/004738	DECISION
Int. Filing Date: 27 October 2003	
Priority Date: None	ON PETITION UNDER
Docket No.: BKS.019.WUS	
For: METHOD AND DEVICES FOR RELAYED PEER-TO-PEER COMMUNICATION BETWEEN TERMINALS IN MOBILE NETWORKS	37 CFR 1.181

This decision is in response to applicant's petition to withdraw the holding of abandonment, under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 04 February 2008.

BACKGROUND

On 19 December 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 December 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 04 February 2008, applicants filed this petition under 37 CFR 1.181.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied. Practitioner states that the Notification of Missing Requirement was not received and indicates that a search of the file did not locate the notification and asserts that a search of the docket records indicates that the Notification of Missing Requirements was not received.

Item (3) has not been satisfied. Practitioner must provide a copy of the docket records for the firm, where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II. The docket records for an individual application are not sufficient.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply is required within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

11 JUL 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLLINGSWORTH & FUNK
8009 34TH AVENUE SOUTH,
SUITE 125
MINNEAPOLIS MN 55425

In re Application of	
RANTAPUSKA, Olli et al.	
Application No.: 10/576,970	
PCT No.: PCT/IB2003/004738	DECISION
Int. Filing Date: 27 October 2003	
Priority Date: None	ON PETITION UNDER
Docket No.: BKS.019.WUS	
For: METHOD AND DEVICES FOR RELAYED PEER-TO-PEER COMMUNICATION BETWEEN TERMINALS IN MOBILE NETWORKS	37 CFR 1.181

This decision is in response to applicant's renewed petition to withdraw the holding of abandonment, under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 28 April 2008.

BACKGROUND

On 04 April 2008, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 28 April 2008, applicant filed this renewed petition under 37 CFR 1.181.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 19 December 2006 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 December 2007 is **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision, including the mailing of a new Notification of Missing Requirements, indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) is requried.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

18 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Louis M. Heidelberger
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103

In re Application of	:	
SURI, et al.	:	
Application No.: 10/576,971	:	
PCT No.: PCT/IN03/00214	:	DECISION ON PETITION
Int. Filing Date: 06 June 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 06-40079-US	:	
For: AN IMPROVED METHOD FOR THE PREPARATION OF MONTELUKAST ACID AND SODIUM SALT THEREOF IN AMORPHOUS FORM	:	

The petition to revive under 37 CFR 1.137(b) filed 25 April 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 06 June 2003 under 35 U.S.C. 363 and will be given a date of **25 April 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

12 MAR 2008

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
FLETCHER et al.
Serial No.: 10/576,983
PCT No.: PCT/IB04/52178
Int. Filing Date: 22 October 2004
Priority Date: 24 October 2003
Attorney's Docket No.: 00878.0052USWO
For: TABLEWARE-WASHING PROCESS INCLUDING A BIOCIDE

DECISION ON PETITION

UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment or in Alternatively, Petition for Revival of an Application for Patent Abandoned Unintentionally" filed 03 January 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application and as explained below, will be treated as a petition under 37 CFR 1.182.

On 24 April 2006, applicant filed the U.S. national stage application for international application PCT/EP04/52178, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/576,983.

On 20 November 2006, a Notification of Missing Requirements, was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 19 December 2006, applicant filed a response; however, the transmittal letter referenced the incorrect U.S. national stage application number (10/576,963).

On 10 December 2007, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 03 January 2008, applicant filed the instant petition, accompanied by a copy of the declaration and the itemized postcard receipt with USPTO date-stamp 19 December 2006, indicating receipt of, *inter alia*, a declaration executed by the inventors.

DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that a response to the Notification of Missing Requirements, was mailed on 19 December 2006. Applicant requests, in the alternative, that the application, unintentionally abandoned, be revived.

A review of the application papers filed on 19 December 2006 indicates that the transmittal letter bore an incorrect U.S. application number (10/576,963). The accompanying

papers referenced the correct U.S. application number (10/576,983). Because applicant indicated an incorrect application number on the transmittal letter, the papers filed on 19 December 2006 were placed in the file indicated by the application number on the transmittal letter. However, since applicant did indicate the correct application number on some of the papers filed, the application is not abandoned and a petition under 37 CFR 1.182 is the proper petition to correct an incorrect number on a filing. The petition filed on 03 January 2008 will be treated as a petition under 37 CFR 1.182 to correct the national stage application number in the application papers to 10/576,983.

Applicant originally filed a response to the Notification of Missing Requirements on 19 December 2006, which incorrectly referenced 10/576,963. The declaration was filed referencing PCT/IB04/52178 and the accompanying papers referenced 10/576,983. The $400 petition fee has been charged to applicant's deposit account per his authorization to correct the incorrect serial number.

A review of the declaration reveals that the declaration identifies and is executed by each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

Applicant's petition under 37 CFR 1.182 to correct the U.S. National stage application no. to 10/576,983 on the national stage papers filed on 19 December 2006 is **GRANTED**. The papers will be moved to this application.

The 10 December 2007 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 19 December 2006 and resubmitted on 03 January 2008 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of $65 was paid on 21 December 2006.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **19 December 2006.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

02 OCT 2006

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REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD IL 61107

In re Application of	:	
VANDYNE et al.	:	
Application No.: 10/576,989	:	
PCT No.: PCT/US2004/035651	:	
Int. Filing Date: 27 October 2004	:	NOTIFICATION
Priority Date: 31 October 2003	:	
Attorney's Docket No.: 03-2285A-US	:	
For: METHOD AND APPARATUS FOR CONTROLLING EXHAUST GAS RECIRCULATION AND START OF COMBUSTION RECIPROCATING COMPRESSION IGNITION ENGINES WITH AN IGNITION SYSTEM WITH IONIZATION MEASUREMENT	:	

This notification is in response to applicants' "Petition Under 37 CFR 1.182" filed on 08 May 2006 and applicants' "Request Not to Treat Petition Filed May 8, 2006" filed on 28 September 2006.

BACKGROUND

On 27 October 2004, applicants filed international application PCT/US2004/035651 which designated the US and claimed a priority date of 31 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 21 April 2006, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-A** and assigned application number **10/576,989**.

On 21 April 2006, applicants filed a second TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-B**.

On 21 April 2006, applicants filed a third TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-C**.

On 21 April 2006, applicants filed a fourth TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment. These application papers were identified by applicant with attorney docket number **502972-PCT-US-D**.

On 08 May 2006, applicants filed a "Petition Under 37 CFR 1.182" requesting that the application papers identified by attorney docket numbers **502972-PCT-US-B**, **502972-PCT-US-C**, and **502972-PCT-US-D** be converted from filings under 35 U.S.C. 371 to filings under 35 U.S.C. 111(a).

On 28 September 2006, applicants filed a "Request Not to Treat Petition Filed May 8, 2006" which was accompanied by a preliminary amendment.

DISCUSSION

As is evident from the above recited facts, applicant submitted four sets of papers to enter the national stage for the same international application. The submission of four sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

> **An** international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of **a** national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

> (b) Subject to subsection (f) of this section, **the** national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. The Transmittal Letters filed 21 April 2006 indicate that each submission is "concerning a filing under 35 U.S.C. 371" of PCT/US2004/035651." No conflicting instructions appear in the application papers.

The "Request Not to Treat Petition Filed May 8, 2006" filed 28 September 2006 supercedes the petition under 37 CFR 1.182. Accordingly, the "Petition Under 37 CFR 1.182" has been placed in the application file but will not be further considered.

Each submission will be treated as a national stage application submitted under 35 U.S.C. 371. In that only one national stage of a PCT application is permitted, it is proper for all of the submissions to be placed in a single application and be assigned a single application number. Accordingly, all of the papers filed on 21 April 2006 have been placed in application number **10/576,989**.

Applicant should use application number **10/576,989** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US2004/035651.

The preliminary amendment filed 28 September 2006 will be entered.

CONCLUSION

For the reasons set forth above, the four sets of submissions filed 21 April 2006 have been placed in the file of application number **10/576,989**.

For the reasons set forth above, the application papers filed 21 April 2006 identified by attorney docket number **502972-PCT-US-A** will be processed in application number **10/576,989** as the national stage application of PCT/US2004/035651.

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

Enc.: Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-B
Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-C
Date-stamped postcard receipt for application papers filed 21 April 2006 identified by attorney docket number 502972-PCT-US-D

05 JUN 2006

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FISH & RICHARDSON PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of	:	
HIU *et al*	:	
U.S. Application No.: 10/576,995	:	
PCT No.: PCT/US2004/027655	:	
Int. Filing Date: 25 August 2004	:	**DECISION**
Priority Date: 26 August 2003	:	
Attorney's Docket No.: 18190-002US1	:	
For: A NOVEL CHIMERIC POLYPEPTIDE AND USE THEREOF	:	

Applicant's "Petition to Revive Application Under 37 CFR §1.137(B)" filed with the national stage papers on 25 April 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.

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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Heller Ehrman LLP
1717 Rhode Island Avenue, NW
Washington, D.C. 20036-3001

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Wolfgang Stahle et al. :
Application No. 10/577,033 : DECISION ON PETITION
Filed: April 24, 2006 : TO WITHDRAW
Attorney Docket No. 24945-0031 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on December 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Baker & Daniels LLP**
805 15th Street, NW
Washington, D.C. 20005

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Gregor Esser	: DECISION ON REQUEST FOR
Patent Number	: 7673990	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,035	: OF WYETH
Filed	: 05/02/2007	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/26/2010

Applicant	: Anders Delen	: DECISION ON REQUEST FOR
Patent Number	: 7665276	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/577,039	: 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 **287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 SEP 2006

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Welsh & Flaxman LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314

In re Application of :
CHRISTENSEN, Tim W. :
Application No.: 10/577,050 :
PCT No.: PCT/US04/20152 :
Int. Filing Date: 23 June 2004 :
Priority Date: 23 June 2003 :
Docket No.: NOVA-001 :
For: INACTIVATING ORGANISMS USING CARBON DIOXIDE AT OR NEAR ITS SUPERCRITICAL PRESSURE AND TEMPERATURE CONDITIONS :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)," filed in the above-captioned application on 24 April 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 has been paid.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 06/11/2010

Applicant	: William Alexander Denny	: DECISION ON REQUEST FOR
Patent Number	: 7629332	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/577,078	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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18 SEP 2007

Patrick H. Higgins
Fox Rothschild LLP
Princeton Pike Corporate Center
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

In re Application of :
ROBINSON et al. :
Application No.: 10/577,124 : DECISION ON PETITION
PCT No.: PCT/GB04/04775 : UNDER 37 CFR 1.182
Int. Filing Date: 10 November 2004 :
Priority Date: 10 November 2003 :
Attorney Docket No.: 05794.00003 :
For: PROTEINS INVOLVED IN QUORUM SENSING

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)" dated 01 May 2007 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicants request to change the name of the second inventor from Hannah Rising to Hannah Cook. The $400 petition fee will be charged to counsel's Deposit Account No. 50-1943.

BACKGROUND

On 26 April 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 an application data sheet.

On 06 March 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 01 May 2007, applicants filed an executed declaration of inventors and a statement from counsel (John P. Blasko) that "inventor Hannah Sue Rising has married and has adopted her husband's family name, Cook."

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 second inventor from Hannah Rising to Hannah Cook. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the second 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' submission included the authorization to charge Deposit Account No. 50-1943 for required fees. Based on this authorization, Deposit Account No. 50-1943 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. However, applicants have not submitted the required statement from the inventor (or court order) confirming the name change and the procedure whereby the name was changed (for example, by marriage).

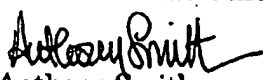
Because applicants have failed to submit all the requirements for a grantable petition, correction of the inventor's name on the present record is inappropriate. Accordingly, the declaration filed 01 May 2007, which identifies the second inventor as Hannah Cook, is defective for failure to properly identify the inventors of record herein.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** 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).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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19 DEC 2007

Patrick H. Higgins
Fox Rothschild LLP
Princeton Pike Corporate Center
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

In re Application of
ROBINSON et al.
Application No.: 10/577,124
PCT No.: PCT/GB04/04775
Int. Filing Date: 10 November 2004
Priority Date: 10 November 2003
Attorney Docket No.: 05794.00003
For: PROTEINS INVOLVED IN QUORUM SENSING

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.182" dated 14 December 2007. Applicants request to change the name of the second inventor from Hannah Sue Rising to Hannah Sue Cook due to marriage. The $400 petition fee has been submitted.

BACKGROUND

On 26 April 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 an application data sheet.

On 06 March 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 01 May 2007, applicants filed an executed declaration of inventors and a statement from counsel (John P. Blasko) that "inventor Hannah Sue Rising has married and has adopted her husband's family name, Cook." In a decision dated 13 September 2007, applicants petition under 37 CFR 1.182 was dismissed without prejudice.

On 14 December 2007, applicants filed the present 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 are requesting to change the name of the second inventor from Hannah Sue Rising to Hannah Sue Cook. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the second 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' submission included the authorization to charge Deposit Account No. 50-1943 for required fees. Based on this authorization, Deposit Account No. 50-1943 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. As for the affidavit requirement, applicants have submitted a "Statement of Inventor" (affidavit) regarding the name change. This affidavit states that the inventor's surname was changed, and that her name was legally changed to Hannah Sue Cook as a result of marriage.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Hannah Sue Rising to Hannah Sue Cook is **GRANTED**.

Based on the above, the declaration filed 01 May 2007 is in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. 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

06 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANT ROAD, SUITE 201
PRINCETON, NJ 08540

In re Application of	:	
KIM, Young-Woo	:	
Application No.: 10/577,170	:	DECISION
PCT No.: PCT/KR04/01849	:	
Int. Filing Date: 23 July 2004	:	ON PETITION UNDER
Priority Date: 23 July 2003	:	
Docket No.: 4220-127 US	:	37 CFR 1.137(b)
For: A LAPROSCOPE WITH FLEXIBLE BINOCULAR CAMERA	:	

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 26 April 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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P.O. Box 1450
Alexandria, VA 22313-1450
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MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON NJ 08540

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Young-Woo Kim	:	
Application No. 10/577,170	:	DECISION ON PETITION
Filed: December 13, 2006	:	
Attorney Docket No. 4220-127 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed September 9, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 10, 2008. A Notice of Abandonment was mailed April 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Petitioner has submitted an unnecessary Request for Continued Examination and fee of $810.00. Petitioner is responding to a non-final Office action and therefore the RCE is not required. Petitioner's deposit account will be refunded the $810.00 fee in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3739 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 SEP 2006

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United States Patent and Trademark Office
P.O. Box 1450
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Dinsmore & Shohl, LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, OH 45202

In re Application of	:	
WELIN-BERGER, John	:	
Application No.: 10/577,180	:	DECISION
PCT No.: PCT/SE04/01286	:	
Int. Filing Date: 08 August 2004	:	ON PETITION UNDER
Priority Date: 08 September 2003	:	
Docket No.: Welin-Berger	:	37 CFR 1.137(b)
For: BURNABLE MATERIAL IN THE FORM OF AN IGNITION STRIP	:	

Applicants' "Petition Under 37 C.F.R. 1.137(b) and 1.495 to Revive Unintentionally Abandoned Application," filed in the above-captioned application on 26 April 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. 04-1133, 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 April 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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23 AUG 2007

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
KRESSNER et al.
Application No.: 10/577,203
PCT No.: PCT/EP04/12000
Int. Filing Date: 23 October 2004
Priority Date: 29 October 2003
Attorney Docket No.: 02894-754US1 06798
For: ELECTRIC DRIVE UNIT FOR GENERATING AN OSCILLATING DISPLACEMENT

DECISION ON

DECLARATION

This decision is on the submission of a declaration under PCT Rule 4.17, filed in the United States Patent and Trademark Office on 09 April 2007 in the above referenced application..

BACKGROUND

On 23 October 2004, applicant filed international application PCT/EP04/12000, claiming a priority date of 29 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 May 2005. The deadline for entry into the national stage in the United States was 29 April 2006.

On 27 April 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 09 February 2007, the Office mailed Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 09 April 2007, applicant submitted a declaration under PCT Rule 4.17 in the German language executed by the inventors.

DISCUSSION

The declaration submitted on 09 April 2007, in response to the Notification of Missing Requirements, was filed under PCT Rule 4.17 and signed by the inventors. However, the declaration does not identify the international application to which it is directed and thus, does not comply with 37 CFR 1.497(a) and (b). See also PCT Administrative Instruction 214, which states that the declaration must be directed to the PCT application if the declaration is furnished pursuant to PCT Rule 26*ter.2*. It is evident that the declaration was not filed with the Request form and international application but filed thereafter, since the Request was filed on 23 October 2004 and the declaration was executed on 1 December 2004. The declaration does not meet the requirements of PCT Rule 26*ter*.2 or the requirements of 37 CFR 1.497(a) and (b). See MPEP 1893.01(e). The declaration submitted on 09 April 2007 is unacceptable.

A newly executed declaration is required. Applicant is reminded that whenever an individual making an oath or declaration cannot understand English, the oath or declaration must be in a language that such individual can understand and shall state that such individual understands the content of document. See 37 CFR 1.69.

CONCLUSION

Applicant is required to file a newly executed declaration, in compliance with 37 CFR 1.63 and 1.497(a) and (b) within the time limit of one month from the date of this letter or within the time remaining in the response period of the Notification of Missing Requirements, whichever is longer. NO EXTENSION OF THIS TIME MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b) BUT THE PERIOD FOR RESPONSE SET IN THE NOTIFICATION OF MISSING REQUIREMENTS MAY BE EXTENDED UP TO A MAXIMUM OF FIVE MONTHS.

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 Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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11 DEC 2007

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
KRESSNER et al.
Application No.: 10/577,203
PCT No.: PCT/EP04/12000
Int. Filing Date: 23 October 2004
Priority Date: 29 October 2003
Attorney Docket No.: 02894-754US1 06798
For: ELECTRIC DRIVE UNIT FOR GENERATING AN OSCILLATING DISPLACEMENT

DECISION ON

DECLARATION

This decision is on the submission of a declaration under PCT Rule 4.17, filed in the United States Patent and Trademark Office on 24 September 2007 in the above referenced application.

BACKGROUND

On 23 October 2004, applicant filed international application PCT/EP04/12000, claiming a priority date of 29 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 May 2005. The deadline for entry into the national stage in the United States was 29 April 2006.

On 27 April 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 09 February 2007, the Office mailed Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 09 April 2007, applicant submitted a declaration under PCT Rule 4.17 in the German language executed by the inventors. On 23 August 2007, a decision was mailed explaining that the declaration submitted on 09 April 2007, in response to the Notification of Missing Requirements, was filed under PCT Rule 4.17 and signed by the inventors but the declaration did not identify the international application to which it is directed and thus, did not comply with 37 CFR 1.497(a) and (b). A newly executed declaration was required.

On 24 September 2007, applicants filed a response including a newly executed declaration.

DISCUSSION

A review of the newly executed declaration reveals that it meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable as it identifies the international application to which it is directed and identifies all the inventors, along with their respective mailing address, residency and citizenship.

CONCLUSION

The newly executed declaration is acceptable and in compliance with 37 CFR 1.63 and 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 24 September 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

05 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Vaso Leposavic
1533 Edinburgh Street
New Westminister, BC
Canada V3M 2W5

In re Application of	:	
LEPOSAVIC *et al*	:	
U.S. Application No.: 10/577,205	:	
PCT No.: PCT/CA2004/001728	:	
Int. Filing Date: 22 September 2004	:	**DECISION**
Priority Date: 23 September 2003	:	
Attorney's Docket No.: None	:	
For: CONTAINER WITH CAP RETAINER	:	

Applicants' "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed with the national stage papers on 26 April 2006 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A 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 22 September 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 April 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

22 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of :
HANS-PETER BRACK et al. :
Serial No.: 10/577,223 : DECISION ON
PCT App. No.: PCT/EP04/10252 :
Int'l Filing Date: 14 September 2004 : PETITION UNDER
Priority Date: 26 September 2003 :
Attorney Docket No.: 5026-1001 : 37 CFR 1.137(b)
For: MEMBRANE ELECTRODE ASSEMBLY :
(MEA), METHOD FOR ITS MANUFACTURING:
AND A METHOD FOR PREPARING A :
MEMBRANE TO BE ASSEMBLED IN MEA :

The petition to revive under 37 CFR 1.137(b) filed 26 April 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 including issuance of a Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Rudolf Christl	: DECISION ON REQUEST FOR
Patent Number	: 7624982	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/577,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **404** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/577,259	02/15/2007	Kazuhisa Nojima	SON-3120	9656

7590 02/13/2008

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
AKANBI, ISIAKA O	

ART UNIT	PAPER NUMBER
2886	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

19 MAY 2006
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COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of RINGERIKE et al :
U.S. Application No.: 10/577,268 :
PCT Application No.: PCT/PL04/00075 :
Int. Filing Date: 26 September 2004 : DECISION
Priority Date Claimed: 26 September 2003 :
Attorney Docket No.: 76222-PCT-US/GJG :
For: TOOLS AND METHODS USEFUL IN :
CHARACTERISING THE IMMUNOTOXIC :
ACTIVITY OF XENOBIOTIC SUBSTANCES :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. §1.137(b)" filed 26 April 2006.

BACKGROUND

On 26 September 2004, applicant filed international application PCT/PL04/00075, which claimed priority of an earlier Poland application filed 26 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 26 March 2006.

International application PCT/PL04/00075 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 April 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

06 SEP 2006
UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Horst M. Kasper
13 Forest Drive
Warren, NJ 07059

In re Application of :
WINKENS, Frank et al. :
Application No.: 10/577,280 : DECISION ON
PCT No.: PCT/EP00/10164 :
Int. Filing Date: 16 October 2000 : PETITION
Priority Date: 15 October 1999 :
Attorney Docket No.: MSA266R1 : UNDER 37 CFR 1.137(b)
For: CAPACITANCE SENSOR FOR :
DETECTING THE FILL LEVEL OF A :
MEDIUM IN A CONTAINER :

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 25 April 2006.

BACKGROUND

On 16 October 2000, applicants filed international application PCT/EP00/10164, which claimed a priority date of 15 October 1999. A copy of the international application was transmitted to the Office by the International Bureau on 26 April 2001. A demand for international preliminary examination was filed on 30 April 2001. The deadline for entry into the national stage in the United States was 15 April 2002.

On 25 April 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a petition to revive and a declaration.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (2), (3) and (4) have been satisfied. The basic 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.

Item (1) has not been satisfied. As this application has been abandoned for an extended period of time, applicants must state or literally mean "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. Applicants' statement will not be construed.

Applicants have supplied a declaration of the inventors in a language other than English, but it is not on an approved USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign language text. 37 CFR 1.69. A statement under 37 CFR 1.69 or a new oath or declaration of the inventors in compliance with 37 CFR 1.69 and 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within a time period of **TWO (2) MONTHS** from the mail date of this Decision. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.137(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.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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11 DEC 2006

Horst M. Kasper
13 Forest Drive
Warren, NJ 07059

In re Application of	:	
WINKENS, Frank et al.	:	
Application No.: 10/577,280	:	DECISION ON
PCT No.: PCT/EP00/10164	:	
Int. Filing Date: 16 October 2000	:	PETITION
Priority Date: 15 October 1999	:	
Attorney Docket No.: MSA266R1	:	UNDER 37 CFR 1.137(b)
For: CAPACITANCE SENSOR FOR DETECTING THE FILL LEVEL OF A MEDIUM IN A CONTAINER	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 25 April 2006.

BACKGROUND

On 06 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 19 September 2006, applicants filed this renewed petition accompanied by a statement under 37 CFR 1.69.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (2), (3) and (4) were previously satisfied.

Item (1) has now been satisfied. Applicants state "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional."

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to

comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Applicants previously supplied a declaration of the inventors in a language other than English, that was not on an approved USPTO form and was not accompanied by a 37 CFR 1.69 statement. Applicants have now provided a satisfactory statement under 37 CFR 1.69.

The fee for filing the search fee, examination fee or oath or declaration later than 30 months from the priority date and the processing fee for furnishing the English translation later than 30 months from the priority date will be charged to deposit account no. 11-0224, as authorized.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch of the Division of PCT Operations for further action consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **25 April 2006**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 6, 2009

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10577285 Patent No.: 7585496

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 – 9D40-C
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: _____

[signature] 1657

SPE **Art Unit**

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert Van Soest	:	
Application No. 10/577,286	:	NOTICE
Filed: April 24, 2006	:	
Attorney Docket No. 903-186 PCT/US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/09 Paper No.: —

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/577324 Patent No.: 7495888 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/09 Paper No.: —

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/577324 Patent No.: 7495888 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:

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Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: ET - 4/6/09

4/7/09

DIEGO GUTIERREZ
~~SUPERVISORY PATENT EXAMINER~~

2831

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Antônio Silva	: DECISION ON REQUEST FOR
Patent Number	: 7608724	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,331	: 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 **56** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 05/17/2010

Applicant : Antônio Silva
Patent Number : 7608724
Issue Date : 10/27/2009
Application No: 10/577,331
Filed : 07/31/2006

: 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 **83** 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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Masaru Takaishi	: DECISION ON REQUEST FOR
Patent Number	: 7642139	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **661** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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: 04/21/2010

Applicant	: Masaru Takaishi	: DECISION ON REQUEST FOR
Patent Number	: 7598586	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **595** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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07 DEC 2007

Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036

In re Application of:
YAN et al.
U.S. Application No.: 10/577,382
PCT No.: PCT/US04/36173
International Filing Date: 28 October 2004
Priority Date: 31 October 2003
Attorney's Docket No.: 68548-PCT-US/JPW/JW
For: METHODS FOR REDUCING SEIZURE-INDUCED NEURONAL DAMAGE

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to the "Communication in Response To September 4, 2007 Notification Of Defective Response" filed 09 October 2007, which is being treated as a request to accept the declaration filed 12 April 2007 under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/US04/36173 which claimed a priority date of 31 October 2003 and which designated the United States. The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 01 May 2006.

On 27 April 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 08 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

On 12 April 2007, applicants filed a "Communication in Response to January 8, 2007 Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office and Petition for a One-Month Extension of Time" which included five pages of declaration materials and a statement that "the subject application does not contain any nucleotide or amino acid sequences as defined in 37 CFR 1.821."

On 04 September 2007, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective because "the declaration document appears to be a compilation of a number of separate declaration documents." The Notification indicated that the failure to file a proper response within one month would result in abandonment of the application.

On 09 October 2007, applicants filed the Response considered herein. The response was not accompanied by a revised oath or declaration. Rather, the response consists of an argument by applicants that the previously filed declaration was in an acceptable form.

DISCUSSION

In applicants' response to the Notification Of Defective Response, counsel asserts that the five pages filed 12 April 2007 were a single document and that the declaration therefore satisfies the requirements of 37 CFR 1.497. However, a review of the filed declaration materials contradicts the assertion that the document is a single, five-page declaration.

The filed declaration materials consist of:

> (1) a first page, identified as "Declaration and Power of Attorney," that identifies the application and sets forth the priority claim under 35 U.S.C. 119(a)-(d);
> (2) a page, identified as "Page 2" that identifies the application and sets forth the priority claim under 35 U.S.C. 119(e);
> (3) a page, identified as "Page 3" which is executed by Shi Du YAN. This page identifies Shi Du YAN as the first inventor, Guy MCKHANN as the second inventor, and David STERN as the third inventor;
> (4) another page, identified as "Page 3" which is executed by Guy MCKHANN . This page identifies Shi Du YAN as the first inventor, Guy MCKHANN as the second inventor, and David STERN as the third inventor; and
> (5) another page, identified as "Page 3" which is executed by David STERN. This page identifies Shi Du YAN as the first inventor, Guy MCKHANN as the second inventor, and David STERN as the third inventor.

Thus, the five page submission consists of Page 1, Page 2, and three signature pages identified as "Page 3." Counsel avers that "each inventor was given a copy of the same declaration containing a complete listing of all inventors for his or her signature." Based on the above statement, it appears that counsel subsequently compiled the declaration into a single document, which is improper. Under these circumstances, the five pages of declaration materials filed 12 April 2007 cannot be treated as a single document. In addition, these materials cannot be accepted as a compilation of separate, complete declaration documents (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, the declaration filed 08 January 2003 remains unacceptable under 37 CFR 1.497.

Because applicants failed to submit a proper response to the Notification Of A Defective Response, this application became abandoned as of midnight on 04 September 2007.

CONCLUSION

Applicants request is **REFUSED** and this application is **ABANDONED**.

The application materials filed by applicant cannot be considered as a single document and such materials do not constitute an acceptable declaration in compliance with 37 CFR 1.497.

Applicants have failed to file a proper response to the Notification Of A Defective Response mailed 04 September 2007.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision, specifically, the issuance of a Notification Of Abandonment (Form PCT/DO/EO/909).

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

2 3 JUN 2008
UNITED STATES PATENT AND TRADEMARK OFFICE

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Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036

In re Application of:
YAN et al.
U.S. Application No.: 10/577,382
PCT No.: PCT/US04/36173
International Filing Date: 28 October 2004
Priority Date: 31 October 2003
Attorney's Docket No.: 68548-PCT-US/JPW/JW
For: METHODS FOR REDUCING SEIZURE-INDUCED NEURONAL DAMAGE

DECISION ON PETITIONS

This decision is issued in response to applicants' "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed 11 February 2008. Additionally, this decision is issued in response to applicants' facsimile communication dated 17 June 2008.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/US04/36173 which claimed a priority date of 31 October 2003 and which designated the United States. The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 01 May 2006.

On 27 April 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 08 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

On 12 April 2007, applicants filed a "Communication in Response to January 8, 2007 Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office and Petition for a One-Month Extension of Time" which included five pages of declaration materials and a statement that "the subject application does not contain any nucleotide or amino acid sequences as defined in 37 CFR 1.821."

On 04 September 2007, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective because "the declaration document appears to be a compilation of a number of separate declaration documents." The Notification indicated that the failure to file a proper response within one month would result in abandonment of the application.

On 09 October 2007, applicants filed "Communication in Response To September 4, 2007 Notification Of Defective Response" which was treated as a Petition under 37 CFR 1.181. The petition was dismissed without prejudice in a Decision on Petition dated 07 December 2007 and the application was held ABANDONED for failing to file a proper response to the Notification of Missing Requirement. Specifically, the declaration of inventorship was not in compliance with 37 CFR 1.497(a)-(b) and MPEP § 201.03.

On 11 February 2008, applicants filed "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" which included a declaration(s) executed by two of three joint inventors (Exhibits A and B).

On 17 June 2008, applicants resubmitted the "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" which included declaration(s) executed by the three joint-inventor (Exhibits A, B, and C) and a copy of the date-stamped filing receipt dated 11 February 2008. (This submission will be treated as a Petition under 37 CFR 1.181.)

DISCUSSION

Petition under 37 CFR 1.181

The petition filed 11 February 2008 does not include the declaration and power of attorney executed by David Stern (Exhibit C of the petition filed 11 February 2008). The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. (See Manual of Patent Examining Procedure §503.) Applicants' 17 June 2008 submission included a copy of their date-stamped filing receipt. The receipt identifies the application by application number, attorney docket number, and filing date. The receipt itemizes, among other things, three signed Declarations and Power of Attorneys (Exhibits A, B, and C). The receipt is stamped "Rec'd. OIPE FEB 11, 2008" across its face is sufficient to indicate that three signed Declarations and Power of Attorneys (Exhibits A, B, and C) were in fact received in the Office on 11 February 2008.

Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this

paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was a Declaration(s) and Power of Attorney executed by the three joint-inventors. Item (1) is satisfied.

As to Item (2), the appropriate petition fee of $1540.00 as required by 37 CFR 1.17 was submitted.

With regard to Item (3), applicants' statement that "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" complies with 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is 11 February 2008.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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JUN 29 2010

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ROCHESTER NY 14603

In re Application :
Matthew Tilbrook et al. :
Application No. 10/577,389 : DECISION ON APPLICATION
Filed: August 31, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **2354/400** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed April 14, 2010. Applicant requests that the determination of patent term adjustment be corrected from 667 to 896 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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30 MAY 2006

MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK NC 27709

In re Application of:
JOHNSON, Phillip, Marc, et al
U.S. Application No.: 10/577,394
PCT No.: PCT/IB2004/000048
International Filing Date: 05 January 2004
Priority Date: 21 January 2003
Atty Docket No.: U02-0086.069
For: SPEED DATA RECEIVER WITH DETECTION OF CHANNEL CODING RATE

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 27 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 13-4365 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 27 April 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/21/2010

Applicant	: Philip Marc Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7606705	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Yasushi Taguchi	: DECISION ON REQUEST FOR
Patent Number	: 7598190	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **656** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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27 MAY 2008

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Darren Gardner
P.O. Box 3042
Monash Park, 2111
AUSTRALIA

In re Application of	:	DECISION ON
SAINTY et al	:	
PCT No.: PCT/AU2004/001082	:	
Application No.: 10/577,421	:	PETITION UNDER
Int. Filing Date: 13 August 2004	:	
Priority Date: 13 October 2003	:	
Attorney's Docket No.: ST005.US	:	37 CFR 1.47(a)
For: ION SOURCE CONTROL SYSTEM	:	

This decision is in response to petitioner's "Petition Under 37 CFR 1.47(a)" submitted on 09 April 2008, requesting the acceptance of the application without the signature of the inventor William Waller. Petitioner has submitted the requisite $200 petition fee by check.

BACKGROUND

On 13 August 2004, applicants filed international application PCT/AU2004/001082, which claimed priority of an earlier application filed 31 October 2003. A copy of the international application was transmitted to the United States from the International Bureau on 19 May 2005.

On 27 April 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An executed declaration was submitted but it did not have the signature of the second named inventor, William Waller.

On 10 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 27 April 2006.

On 09 April 2008, petitioner filed the current petition under 37 CFR 1.47 to proceed without the signature of inventor William Waller.

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.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written

refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1), (3), and (4) of 37 CFR 1.47(a). However, item (2) has not been satisfied.

Regarding item (1), the correct petition fee of $200.00 has been paid.

Regarding item (2), the averments of Darren Gardner are not sufficient to support a finding that the nonsigning inventor, Waller refuses to sign because it is unclear if 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 refused to return the correspondence.

Also, 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. Waller still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Waller. 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**.

Also Gardner states that searches of telephone directories were made, the list has not been provided. Moreover, Darren Gardner has not shown that a searched for the above non-signing inventor's new address was done by a broad search in the internet in addition to a phone directory listing, which would show diligent effort by him to find the nonsigning inventor.

Finally, it is not clear from the petition that it was Darren Gardner who performed the items listed in the petition, and has first hand knowledge of those facts as required by MPEP Section 409.03(d). If Darren Gardner was not the person who performed the actions listed in the petition, then petitioner will need to submit statements, with specific facts on the actions referred by the petition from persons, who have first-hand knowledge of such facts.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding item (4), petitioner has provided an executed declaration signed by Wayne Sainty on his behalf and on the behalf of the nonsigning joint inventor William Waller.

Consequently, at this time it can not be concluded that the nonsigning Mr. Waller could not be reached after diligent effort or refuses to sign as stipulated under 37 CFR 1.47(a).

As a result, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 10 January 2007 is **VACATED** with the mailing of this decision because it was erroneously mailed.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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Darren Gardner
P.O. Box 3042
Monash Park, 2111
AUSTRALIA

In re Application of	:	DECISION ON
SAINTY et al	:	
Application No.: 10/577,421	:	
PCT No.: PCT/AU2004/001082	:	PETITION UNDER
Int. Filing Date: 13 August 2004	:	
Priority Date: 13 October 2003	:	
Attorney's Docket No.: ST005.US	:	37 CFR 1.47(a)
For: ION SOURCE CONTROL SYSTEM	:	

This decision is in response to applicants' "Supplementary Declaration," filed on 15 July 2008, which is being treated as a Renewed Petition Under 37 CFR 1.47(a).

BACKGROUND

The decision by this Office dated 27 May 2008 indicated that requirement (2) had not been satisfied.

On 15 July 2008, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by inventor William Waller.

DISCUSSION

The renewed petition has an executed declaration signed by William Waller. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 15 July 2008 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **15 July 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Osamu Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7592207	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/577,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Osamu Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7592207	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
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Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Osamu Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7592207	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/577,425	: OF WYETH AND NOTICE OF INTENT TO
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The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of

Behnamrad, et al. :

Application No. 10/577,432

: DECISION ON PETITION

Filed: April 27, 2006

:

Attorney Docket No. **BEHN3001/FJD**

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 27, 2009, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 28, 2009. A Notice of Abandonment was mailed November 10, 2009.

The amendment filed April 1, 2010, is noted.

The application is being forwarded to Technology Center 3700, GAU 3781 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Atsushi Tashiro	: DECISION ON REQUEST FOR
Patent Number	: 7586937	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,440	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Sadamasa Fujii	: DECISION ON REQUEST FOR
Patent Number	: 7612456	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/577,450	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JAN 2009

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Finnegan, Henderson, Farabow,
Garrett & Dunner LLP
901 New York Avenue, NW
Washington, D.C. 20001-4413

In re Application of
YAMADA et al.
Application No.: 10/577,452
PCT No.: PCT/JP04/16052
Int. Filing Date: 28 October 2004
Priority Date: 30 October 2003
Atty. Docket No.: 07043.0053
For: TERMINAL APPARATUS, TERMINAL APPARATUS CONTROL METHOD, NETWORK SYSTEM, NETWORK SYSTEM CONTROL METHOD, PROGRAM AND RECORDING MEDIUM

DECISION

This decision is issued in response to applicants' "Request For Corrected Filing Receipt" filed 21 November 2008, treated herein as a petition under 37 CFR 1.182 to treat the present application as a national stage for the above captioned international application, and not for the international application indicated on the originally filed Transmittal Letter. Deposit Account No. 06-0916 will be charged the required petition fee.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/JP04/16052 which claimed a priority date of 30 October 2003 and which designated the United States. On 12 May 2005, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 April 2006.

On 27 April 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 a translation into English of the international application. The Transmittal Letter identified the application as a national stage of PCT/EP04/16052, filed 28 October 2004.

Based on the international application number listed on the Transmittal Letter, the present application file was established as a national stage of PCT/EP04/16052.

On 18 May 2008, applicants filed an executed declaration which identified the application as a national stage of PCT/JP04/16052, filed 28 October 2004.

On 27 August 2008, the USPTO mailed a Notification Of Acceptance indicating that the application was a national stage of PCT/EP04/16052 (the filing receipt also listed the application as a national stage of PCT/EP04/16052).

On 21 November 2008, applicant filed "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.182 to treat the present application as a national stage for the above captioned international application, and not for the international application indicated on the originally filed Transmittal Letter.

DISCUSSION

As noted above, the Transmittal Letter filed by applicants to initiate this national stage application identified the submission as a national stage of PCT/EP04/16052. The present submission filed by applicants confirm that the listing of PCT/EP04/16052 on the original application materials was incorrect, and that the application was intended as a national stage of PCT/JP04/16052.[1] Because the present application was created as a national stage of PCT/EP04/16052 based on applicants' original submission, correction of the application to indicate that it is a national stage of PCT/JP04/16052 requires a petition under 37 CFR 1.182. The request for corrected filing receipt has been treated as such a petition. Applicants have previously authorized a charge to Deposit Account No. 06-0916 for required fees; based on this authorization, Deposit Account No. 06-0916 will be charged the required $400 petition fee.

The petition to treat the present application as a national stage of PCT/JP04/16052 is granted. The Notification Of Acceptance and filing receipt mailed 27 August 2008 (both of which indicate that the application is a national stage of PCT/EP04/16052), are appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.182 **GRANTED**.

Deposit Account No. 06-0916 will be charged $400 as the required petition fee.

USPTO records will be corrected to indicate that the present application is the national stage of PCT/JP04/16052 with an international filing date of 28 October 2004 and claims priority to JP 2003-370719 (30 October 2003).

---

[1] It is noted that the submission included a copy of the cover page of International Publication WO 2005/043827 A2 which identified the correct international application number, PCT/JP04/16052.

The Notification Of Acceptance and filing receipt mailed 27 August 2008 are hereby VACATED based on their identification of the present application as a national stage of PCT/EP04/16052.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision, including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/JP04/16052; and (2) issuing a corrected Notification Of Acceptance and corrected filing receipt which properly identify the application as a national stage of PCT/JP04/16052.

Anthony Smith
Attorney-Advisor
Office of 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.
10/577,493	04/27/2006	Hiromi Omi	00862102948	6795

5514 7590 10/24/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER	
ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
10/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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OCT 24 2007

TECHNOLOGY CENTER 2100

HOFFMAN, WARNICK & D'ALESSANDRO LLC
75 STATE ST, 14 FL
ALBANY NY 12207

In re Application of: Hiromi OMI et al.
Application No. 10/577,493
Filed: April 27, 2006
For: INFORMATION PROCESSING APPARATUS, INFORMATION PROCESSING METHOD : AND RECORDING MEDIUM, AND PROGRAM

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 September 28, 2007, to make the above-identified application special.

The petition is **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

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 Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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NXP BV
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
Klemens Breitfuss	:	
Application No. 10/577,516	:	ON PETITION
Filed: April 26, 2006	:	
Attorney Docket No. AT03 0060 US1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 23, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed June 30, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on September 2, 2008. However, by Advisory Action mailed October 3, 2008, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on

October 1, 2008. The Office mailed a Notice of Abandonment on February 6, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 2618 for consideration of the RCE, filed July 23, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

25 MAY 2006

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of
CHLOCHARD
Application No.: 10/577,523
PCT No.: PCT/FR03/50110
Int. Filing: 30 October 2003
Priority Date: 31 October 2002
Attorney Docket No.: 0540-1046
For: MANEUVERING DEVICE FOR CONTROLLED TILTING OF A CUT UP TRUNK PORTION

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is responsive to the petition to revive under 37 CFR 1.137(b) filed 28 April 2006 in the above-captioned application. The petition is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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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	:	
Matsushima et al.	:	
Application No. 10/577531	:	ON REQUEST FOR
Filing or 371(c) Date: 04/28/2006	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
1056-0138PUS1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed May 14, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 586 days, not 453 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Matsushima et al.	:	
Pat. Num./Pub. Num: 7,612,208	:	ON REQUEST FOR
Issue Date: 11/03/2009	:	RECONSIDERATION OF
Application No. 10/577531	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/28/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
1056-0138PUS1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 24, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-seven (637) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-seven (637) days is **GRANTED to the extent indicated herein**.

A review of the record reveals that the Office errantly neglected to assess a reduction of 6 days in accordance with 37 CFR 1.704(c)(10) in connection with the Information Disclosure Statement ("IDS"), filed May 14, 2009. The reduction commenced May 14, 2009, the date that IDS was filed, and ended May 19, 2009, the mailing date of the Office action in response to the IDS was mailed, and is six days (not five days).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The address given on the petition differs from the address of record. 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 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 **SIX HUNDRED THIRTY-SIX (636) DAYS**.

Telephone inquiries specific to this matter should be directed to the unbdersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,612,208 B2

DATED : **November 3, 2009**

INVENTOR(S) : Matsushima 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 485 days.

Delete the phrase "by 485 days" and insert – by 636 days--

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Matsushima et al.	:	
Pat. Num./Pub. Num: 7,612,208	:	ON REQUEST FOR
Issue Date: 11/03/2009	:	RECONSIDERATION OF
Application No. 10/577531	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/28/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
1056-0138PUS1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 24, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-seven (627) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-seven (627) days is **GRANTED to the extent indicated herein.**

A review of the record reveals that the Office errantly neglected to assess a reduction of 6 days in accordance with 37 CFR 1.704(c)(10) in connection with the Information Disclosure Statement ("IDS"), filed May 14, 2009. The reduction, 6 days, commenced May 14, 2009, the date that IDS was filed, and ended May 19, 2009, the mailing date of the Office action in response to the IDS was mailed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The address given on the petition differs from the address of record. 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 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 **SIX HUNDRED THIRTY-SIX (636) DAYS**.

Telephone inquiries specific to this matter should be directed to the unbdersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,612,208 B1

DATED : **November 3, 2009**

INVENTOR(S) : Matsushima 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 485 days.

Delete the phrase "by 485 days" and insert – by 636 days--

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/577,531	04/28/2006	Tomohiro Matsushima	1056-0138PUS1

CONFIRMATION NO. 9835

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Date Mailed: 04/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2010.

- 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).

/dlwoods/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/577,531	04/28/2006	Tomohiro Matsushima	1056-0138PUS1

CONFIRMATION NO. 9835

POA ACCEPTANCE LETTER

26211
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000041275899

Date Mailed: 04/26/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2010.

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.

/dlwoods/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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www.uspto.gov

CHALKER FLORES, LLP
2711 LBJ FRWY, Suite 1036
DALLAS, TX 75234

MAILED

JUL 16 2010

OFFICE OF PETITIONS

In re Application of :
Edward J. ANTHONY, et *al.* :
Application No. 10/577,540 : DECISION DISMISSING PETITION
Filed: September 25, 2006 : UNDER 37 CFR 1.313(a)
Attorney Docket No. **SHAP:1001RCE** :

This is a decision on the petition under 37 CFR 1.313(a), filed July 14, 2010, 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 April 14, 2010, with the issue fee being due on or before July 14, 2010. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

The matter is being referred to Technology Center AU 1793 for appropriate processing of the RCE filed July 14, 2010, and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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2711 LBJ FRWY, Suite 1036
DALLAS, TX 75234

MAILED

JUL 16 2010

OFFICE OF PETITIONS

In re Application of :
Edward J. ANTHONY, et *al.* :
Application No. 10/577,542 : DECISION DISMISSING PETITION
Filed: April 28, 2006 : UNDER 37 CFR 1.313(a)
Attorney Docket No. **SHAP:1000RCE** :

This is a decision on the petition under 37 CFR 1.313(a), filed July 14, 2010, 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 April 19, 2010, with the issue fee being due on or before July 19, 2010. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

The matter is being referred to Technology Center AU 1793 for appropriate processing of the RCE filed July 14, 2010, and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,550	03/14/2007	Norio Kurita	46884-5476 (225497)	8196

55694 7590 09/29/2009

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

EXAMINER	
PHAN, JAMES	

ART UNIT	PAPER NUMBER
2872	

MAIL DATE	DELIVERY MODE
09/29/2009	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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of
Norio Kurita et al.
Application No.: 10/577,550
Filed: 28 April 2006
Attorney Docket No.: 46884-5476 (225497)
For: SHUTTER UNIT AND LASER PROCESSING DEVICE USING SAME

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 10 July 2009, to make the above-identified application special.

The request and petition are **DENIED**.

Discussion

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, 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).

This request to participate in the PPH program and petition fails to satisfy at least condition 4 above. This application has received a Notice of Allowability by the Examiner on 27 July 2009. This application will remain in its regular status and prosecution shall continue in its regular course.

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

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 remains.

Brian Sircus
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.
10/577,564	04/27/2006	Zhongyi Li	71342-PCT-US/JPW/JW	9729

23432 7590 04/06/2010

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

EXAMINER	
PAGE, BRENT T	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
04/06/2010	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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APR 0 6 2010

John P. White
COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of :
Li et al. :
Serial No.: 10/577,564 :DECISION ON PETITION
IA Filing Date: 27 April 2006 :
Attorney Docket No.:0070/71342-PCT-US/JPW/GJG/LCM

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 24 December 2009.

BACKGROUND AND DISCUSSION

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

On 22 September 2008, the examiner divided claims 1-20, 24, 37, 40-41 and 43, as they were amended on 27 April 2006, into two groups as follows.

> Group I, claim(s) 1-4, 7-20, 24, 37, and 40 drawn to a grain obtained from a rice plant wherein a mutation of an SBEIIa gene and a mutation of an SBEIIb gene reduce the levels or activities of SBEIIa and SBEIIb.
>
> Group II, claim(s) 1-6, 8-14, 17-20, 40-41, and 43, drawn to a grain obtained from a rice plant wherein an introduced nucleic acid inhibits both SBEIIa and SBEIIb.

On 16 December 2008, applicants elected Group II, with traverse.

On 19 February 2009, the examiner acknowledged the election with traverse. The Examiner then re-divided the same claims 1-20, 24, 37, 40-41 and 43, as they were pending on 27 April 2006 into three groups as follows.

Group I, claim(s) 1-6, 8-14, 17, 40, 41 and 43, drawn to a grain obtained from rice wherein the rice grain comprises a reduced level of SBEIIa and SBEIIB and comprises a transgene and a method of producing a rice starch therefrom.

Group II, claim(s) 1-4, 7-17, 24, 37, and 40 drawn to a grain obtained from rice wherein the rice grain comprises a reduced level of SBEIIa and SBEIIB and comprises introducing variations via mutagenizing or identifying null mutants, including Wx^a.

Group III, claim(s) 18-20, drawn to a starch or starch granule and flour.

In this division, it is noted that the claims were switched between Group I and II.

On 23 March 2009, applicants filed an amendment to the claims 15, 18, 20, and elected Group I with traverse.

On 23 July 2009, claims 1-18, 20, 24, 37 and 43 were pending. The examiner acknowledged the election of Group I, considered the traversal and made the restriction requirement FINAL. Claims 7, 15-18, 20, 24 and 27 were withdrawn from consideration as being directed to non-elected inventions. Claims 1-6, 8-14 and 43 were rejected under 35 USC 112, first paragraph for lacking scope of enablement and adequate written description and under 35 USC 103 as being unpatentable over Broglie.

On 24 December 2009, applicants filed a response to the Office action, this petition under consideration, along with an amendment to the claims.

On 12 March 2010, applicants filed an Information Disclosure Statement and an amendment to the claims. Claims 1, 2 4, 6, 8-18, 20, 24, 43, 48-49 and 53-55 are now pending.

The amendment of 12 March 2010 cancelled claims 50-52 and amended claims 8, 9, 15 and 16. Upon discussion with the Supervisory Patent Examiner, it is understood that, following an agreement upon examiner's amendment, claims 1, 2, 4, 6, 8-17, 24, 43, 48-49 and 53-55 would be in condition for allowance. It is further understood that applicant has provided permission of cancellation of claims 18 and 20.

For these reasons, the allowable claims have unity of invention with each other.

DECISION

The petition is **GRANTED** for the reasons set forth above, in view of the upcoming notice of allowance.

The restriction requirement between Groups I, II and III has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.

In view of the withdrawal of the restriction requirement as to the linked inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The application will be forwarded to the examiner for consideration of the papers filed 12 March 2010 and for preparation of an Office action consistent with this decision consistent with MPEP 1893.05(d) and 821.04(b).

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

28 MAR 2007

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RONALD R. SANTUCCI
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of:	:	
KLOKKERS, Karin et al.	:	DECISION
Application No.: 10/577,569	:	
PCT NO.: PCT/EP04/12230	:	
Int. Filing Date: 28 October 2004	:	UNDER
Priority Date: 31 October 2003	:	
Atty Docket No.: 930008-2208	:	
For: PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING	:	37 CFR 1.47(a)

This decision is in response to applicants' "Petition Under 37 CFR §1.47(a), filed 21 February 2007 to accept the application without the signature of one of the co-inventors, Thomas Rillman. For reasons set forth below, the petition is **Dismissed**.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP04/12230, which claims a priority date of 31 October 2003 and which designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 30 April 2006. Applicant filed the National Stage application on 27 April 2006.

On 21 December 2006, the United States Designated/Elected Office (DO/EO) 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 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 of the date of the Notification or by 32 months from the priority date, whichever is later, along with a surcharge of $130. The period for response was set to expire on 21 February 2007, two months from the mail date of the Notification.

On 21 February 2007, Applicants filed the instant petition under 37 CFR §1.47(a) to accept the above-identified national application without the signature of co-inventor Thomas Rillman, which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillman, the petition fee of $130, surcharge fees $130 for late submission of requirements, and supporting evidence presented with the petition. The evidence consists of a letter, dated February 20, 2007, from a Dr. Forstmeyer of Boeters & Lieck to Applicant's United States attorney, Ms. Massey Licata.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventor. Applicants have satisfied none of the four items listed above.

With respect to item (4) as named above, the declaration of 21 February 2007 is hereby acknowledged.

With respect to item (3), although the last known address of Thomas Rillman is given on the declaration of 21 February 2007, there is no specific document that plainly states what the last known address is for Thomas Rillman.

Regarding item (2) above, MPEP 409.03(d) states in part:

"Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions."

The letter of February 20, 2007 is the sole piece of evidence offered in support of the instant petition. In the letter, Dr. Forstmeyer flatly states that the "fourth inventor, Mr. Thomas Rillman, refuses to sign said documents," where the documents are identified in the letter as the "declaration" and the "assignment." There is nothing in the record which demonstrates a diligent effort was made to locate the inventor. Further, there is no evidence as to the inventor having been presented a copy of the application papers at all to Mr. Rillman or of his having refused to sign such application papers. It is further noted that the statement of facts in the letter are not a sworn statement.

Regarding item (1) above, applicants have paid for a petition fee of $130 under 37 CFR. 1.17(i). However, the appropriate petition fee of $200 is required under 37 CFR. 1.17 (g) for filing under 37 CFR 1.47(a). Therefore, an addition fee of $70 will be charged to applicants' deposit account.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

In view of the authorization given by applicants to charge additional fees to Deposit Account 50-1619, the amount of $70 has been charged to the account for insufficient petition fee.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to timely submit the proper reply will result in ABANDONMENT. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner of Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Bernarr E. Gregory
Office of PCT Legal Administration
Tel.: (571) 272-6094
FAX: (571) 273-0459

Leonard E. Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration
Tel.: (571) 272-3297

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05 SEP 2007

Ronald R. Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

In re Application of	:	
KLOKKERS et al.	:	
Application No.: 10/577,569	:	
PCT No.: PCT/EP2004/012230	:	
Int. Filing Date: 28 October 2004	:	DECISION
Priority Date: 31 October 2003	:	
Attorney Docket No.: 930008-2208	:	
For: PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING	:	

This decision is in response to the submission filed 17 July 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 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 and a translation of the application into English.

On 26 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillman, a letter from a Dr. Forstmeyer to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. The decision indicated, *inter alai*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillman.

DISCUSSION

Petition Under 37 CFR 1.47(a)

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

Declaration of Inventors

The declaration of inventors signed by Thomas Rillman filed 17 July 2007 is not in compliance with 37 CFR 1.497(a)-(b) since it does not identify all of the inventors. Each declaration must identify all of the inventors even if it is only signed by one of them.

Extension of Time

The decision mailed 28 March 2007 set a two-month extendable period for reply. The submission filed 17 July 2007 included a petition/fee for a five-month extension of time when only a two month extension was required. The difference has been credited to Deposit Account 50-1619.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Since the reply filed 17 July 2007 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a declaration signed by Thomas Rillman in compliance with 37 CFR 1.497(a)-(b). 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
Facsimile: (571) 273-0459

0 7 NOV 2007

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Ronald R. Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

In re Application of	:	
KLOKKERS et al.	:	
Application No.: 10/577,569	:	
PCT No.: PCT/EP2004/012230	:	
Int. Filing Date: 28 October 2004	:	DECISION
Priority Date: 31 October 2003	:	
Attorney Docket No.: 930008-2208	:	
For: PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed 04 October 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 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 and a translation of the application into English.

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On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillmann, a letter from a Dr. Forstmeyer to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. The decision indicated, *inter alai*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillmann.

On 05 September 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) as moot since a 37 CFR 1.497 declaration had been executed by all the joint inventors. The decision also indicated that the declaration of inventors signed by Thomas Rillmann filed 17 July 2007 was not in compliance with 37 CFR 1.497(a)-(b) since it did not identify all of the inventors and that a new declaration signed by Thomas Rillmann in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 October 2007, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alai*, a declaration of facts by Hubert Leger.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been met.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.

The declaration of facts by Mr. Leger filed 04 October 2007 makes it clear that Mr. Rillmann understands exactly what he is being asked to sign. However, it has not been established that Mr. Rillmann refuses to sign. While Mr. Rillmann signed a declaration of inventors listing only himself as an inventor, it has not been established that he refuses to sign a declaration of inventors listing all of the inventors. The declaration of Mr. Leger states that a facsimile was sent to Mr. Rillmann's attorney on 02 October 2007 informing him of the problem with the declaration executed by Mr. Rillmann and requesting that Mr. Rillmann return an executed version of the original declaration before 04 October 2007. However, two days is not a sufficient amount of time for a reply. If no response is received from Mr. Rillmann's attorney, some sort of follow-up communication would be required. Additionally, the statement of facts is not

sufficient because it must be made by someone having first-hand knowledge of the facts recited therein. MPEP § 409.03(d). Mr. Leger does not appear to have first-hand knowledge of all of the facts recited. For example, someone other than Mr. Leger sent the facsimile to Mr. Rillmann's attorney on 02 October 2007.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

For the above reasons, that portion of the decision mailed 05 September 2007 which dismissed applicants' petition under 37 CFR 1.47(a) as moot is hereby VACATED.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

22 JAN 2008

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www.uspto.gov

Ronald R. Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

In re Application of :
KLOKKERS et al. :
Application No.: 10/577,569 :
PCT No.: PCT/EP2004/012230 :
Int. Filing Date: 28 October 2004 : DECISION
Priority Date: 31 October 2003 :
Attorney Docket No.: 930008-2208 :
For: PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 04 January 2008 and the submission filed 07 January 2008. The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 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 and a translation of the application into English.

On 26 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillmann, a letter from a Dr. Forstmeyer to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. The decision indicated, *inter alai*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillmann.

On 05 September 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) as moot since a 37 CFR 1.497 declaration had been executed by all the joint inventors. The decision also indicated that the declaration of inventors signed by Thomas Rillmann filed 17 July 2007 was not in compliance with 37 CFR 1.497(a)-(b) since it did not identify all of the inventors and that a new declaration signed by Thomas Rillmann in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 October 2007, applicants submitted a petition under 37 CFR 1.47(a) for non-signing inventor Thomas Rillman who purportedly would not sign a declaration listing all of the inventors. The petition was accompanied by, *inter alai*, a declaration of facts by Hubert Leger.

On 07 November 2007, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(a) filed 04 October 2007 for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 04 January 2008, applicants filed a renewed petition under 37 CFR 1.47(a).

On 07 January 2008, applicants filed a submission including, *inter alia*, a declaration of inventors signed by all inventors.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration filed 07 January 2008 is not sufficient because it contains non-initialed alterations (page 3of the declaration). 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper oath or declaration. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

14 APR 2008

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ronald R. Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

In re Application of	:	
KLOKKERS et al.	:	
Application No.: 10/577,569	:	
PCT No.: PCT/EP2004/012230	:	
Int. Filing Date: 28 October 2004	:	NOTIFICATION
Priority Date: 31 October 2003	:	
Attorney Docket No.: 930008-2208	:	
For: PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING	:	

This is a decision on applicants' submission filed 27 February 2008.

BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 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 and a translation of the application into English.

On 26 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillmann, a letter from a Dr. Forstmeyer to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. The decision indicated, *inter alai*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillmann.

On 05 September 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) as moot since a 37 CFR 1.497 declaration had been executed by all the joint inventors. The decision also indicated that the declaration of inventors signed by Thomas Rillmann filed 17 July 2007 was not in compliance with 37 CFR 1.497(a)-(b) since it did not identify all of the inventors and that a new declaration signed by Thomas Rillmann in compliance with 37 CFR 1.497(a)-(b) was required.

On 04 October 2007, applicants submitted a petition under 37 CFR 1.47(a) for non-signing inventor Thomas Rillman who purportedly would not sign a declaration listing all of the inventors. The petition was accompanied by, *inter alai*, a declaration of facts by Hubert Leger.

On 07 November 2007, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(a) filed 04 October 2007 for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 04 January 2008, applicants filed a renewed petition under 37 CFR 1.47(a).

On 07 January 2008, applicants filed a submission including, *inter alia*, a declaration of inventors signed by all inventors.

On 22 January 2008, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) as moot since a 37 CFR 1.497 declaration had been executed by all the joint inventors. The decision also noted that the declaration filed 07 January 2008 was not sufficient because it contained non-initialed alterations.

On 27 February 2008, applicants filed the instant submission which included a declaration of inventors.

DISCUSSION

The declaration of inventors filed 27 February 2008 is in compliance with 37 CFR 1.52(c) since the alterations have been initialed and dated. The declaration of inventors is also in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459