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WASHINGTON DC 20036-5304

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SEP 18 2009

OFFICE OF PETITIONS

In re Application of :
Nan, et al. :
Application No. 10/582,580 :
Filed: 12 June, 2006 :
Attorney Docket No. 56816.1740 :

DECISION

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 August, 2008, with reply due under absent an extension of time on or before 7 November, 2008.

The application went abandoned by operation of law after midnight 7 November, 2008..

The Office mailed the Notice of Abandonment on 13 March, 2009.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay..

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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

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

Mail Date: 05/04/2010

Applicant	: Friedhelm Schmitz	: DECISION ON REQUEST FOR
Patent Number	: 7614849	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/582,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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30 AUG 2007

Jay S Cinnamon
Abelman Frayne and Schwab
666 Third Avenue
New York NY 10017-5621

In re Application of	:	
PHILLIPS, et al.	:	
U.S. Application No.: 10/582,617	:	DECISION ON PETITION
PCT No.: PCT/AU04/01749	:	
Int. Filing Date: 13 December 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 11 December 2003	:	
Attorney Docket No.: 207,643	:	
For: HIGH IMPACT GATE	:	

This decision is in response to applicant's "Petition to Add Inventor Under 37 CFR 1.497(d)" filed 23 July 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 December 2004, applicant filed international application PCT/AU04/01749 which claimed priority to an earlier application filed 11 December 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 23 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 June 2005.

On 10 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee and a first preliminary amendment.

On 02 April 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 23 June 2007, applicant responded with the present petition accompanied by a petition for a two-month extension of time and payment of the appropriate extension of time fee. With the payment of the extension of time fee, the present response is considered timely filed.

DISCUSSION

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

(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), while applicant has included a statement from the assignee consenting to the correction of inventorship in the application, the statement in and of itself is insufficient for satisfying this item. As explained in the Manual of Patent Examining Procedure section 201.03:

The individual signing on behalf of the assignee giving its consent to the requested inventorship correction, should specifically state that he or she has the authority to act on behalf of the assignee. In the absence of such a statement, the consent will be accepted if it is signed by an appropriate official of the assignee (e.g., president, vice president, secretary, treasurer, or derivative thereof) if the official's title has been made of record. A general statement of authority to act for the assignee, or on the specific matter of consent, or the appropriate title of the party signing on behalf of the assignee should be made of record in the consent. However, if it appears in another paper of record, e.g., small entity assertion, it is also acceptable. Further, the assignee must establish its ownership of the application in accordance with 37 CFR 3.73. MPEP § 324.

The filed paper shows that Mr. Phillips is the director of EZI Automation Pty Ltd., but does not indicate that he has the authority to act on behalf of the assignee and his title has not been made of record. In addition, the assignee has not established its ownership in accordance with 37 CFR 3.73.

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

11 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jay S Cinnamon
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New York NY 10017-5621

In re Application of	:	
PHILLIPS, et al.	:	
U.S. Application No.: 10/582,617	:	DECISION ON RENEWED
PCT No.: PCT/AU04/01749	:	
Int. Filing Date: 13 December 2004	:	PETITION UNDER
Priority Date: 11 December 2003	:	
Attorney Docket No.: 207,643	:	37 CFR 1.497(d)
For: HIGH IMPACT GATE	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 29 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 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 29 January 2008, applicant responded with the present renewed petition accompanied by a petition for a three-month extension of time and payment of the appropriate extension of time fee. Therefore, applicant's renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 30 August 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), (2) and (4). With the filing of the present renewed petition and supporting materials, applicant has satisfied the remaining item and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, the renewed petition under 37 CFR 1.497(d) is **GRANTED**.

This application has an international application filing date of 13 December 2004 and will be given a date of **23 July 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.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 06/15/2010

Applicant	: Hiroshi Yokota	: DECISION ON REQUEST FOR
Patent Number	: 7632768	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/582,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **313** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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01 FC:1617 130.00 DA

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG NY 10962-2100

In re Application of	:	
PEKAREK et al.	:	
Application No.: 10/582,649	:	DECISION ON
PCT No.: PCT/CZ2004/000024	:	
Int. Filing Date: 28 April 2004	:	PETITION UNDER
Priority Date: 30 April 2003	:	
Attorney Docket No.: J187-032 US	:	37 CFR 1.137(b)
For: METHOD FOR DEHALOGENATION	:	
DETOXIFICATION OF HALOGENATED	:	
AROMATIC AND/OR CYCLIC COMPOUNDS	:	

This decision is in response to applicant's submission filed 13 June 2006.

BACKGROUND

On 28 April 2004, applicant filed international application PCT/CZ2004/000024 which designated the U.S. and claimed a priority date of 30 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 October 2005 (30 October 2005 being a Sunday).

On 13 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 13 June 2006.

As to item (2), applicant submitted the petition fee on 13 June 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.

Declaration of Inventors

The declaration of inventors filed 13 June 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 14-1431.

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
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UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
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Suite 500
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Mail Date: 07/08/2010

Applicant	: Eiji Akiyama	: DECISION ON REQUEST FOR
Patent Number	: 7645536	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/582,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

18 JUL 2006

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

In re Application of	:	DECISION ON
Thomas A. Brandt	:	
Application No.: 10/582,681	:	
PCT No.: PCT/IB2004/003815	:	
Int. Filing Date: 22 November 2004	:	PETITION UNDER
Priority Date: 02 December 2003	:	
Attorney's Docket No.: PC26214A	:	
For: Process for Converting Heterocyclic	:	
Heterocycles	:	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 13 June 2006. The required fee of $130.00 (the surcharge under 1.492(h) for late filing of the executed declaration) has charged to Deposit Account No.: 16-1445 as indicated in the transmittal letter.

BACKGROUND

On 22 November 2004, this international application was filed, claiming an earliest priority date of 02 December 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 02 June 2006. This international application became abandoned with respect to the United States at midnight on 02 June 2006 for failure to pay the required basic national fee.

On 13 June 2006, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration and the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section).

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

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **13 June 2006.**

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

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

Mail Date: 04/21/2010

Applicant	: Jacob Strom	: DECISION ON REQUEST FOR
Patent Number	: 7657105	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas H. Osborn
Otis Elevator Company
10 Farm Springs
Farmington, CT 06032

Mail Date: 04/21/2010

Applicant	: Jin Koo Lee	: DECISION ON REQUEST FOR
Patent Number	: 7571797	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,706	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **589** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Fumio Takeshima	: DECISION ON REQUEST FOR
Patent Number	: 7628129	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **426** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

STITES & HARBISON PLLC
1199 North Fairfax Street, Suite 900
Alexandria, VA 22314

In re Application of URPOLAHTI U.S. Application No.: 10/582,715 PCT No.: PCT/FI2003/000666 Int. Filing Date: 12 September 2003 Priority Date: None Attorney Docket No.: P08946US00/DEJ For: FOOT BOLT FOR A SLIDING DOOR OR SIMILAR	:	**DECISION**

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 with the national stage papers on 12 June 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. The surcharge fee of $65.00 for furnishing the declaration late has been charged to Deposit Account No. 12-0555 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 September 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 June 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

Applicant	: Kurt Andersson	: DECISION ON REQUEST FOR
Patent Number	: 7618025	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/582,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **694** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
David ANTHONY, et al	:	
Application No. 10/582,758	:	DECISION ON PETITION
Filed: June 13, 2006	:	TO WITHDRAW
Attorney Docket No. X2YA004UPCTUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 30, 2009.

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

A review of the file record indicates that the power of attorney to Richard Neifeld and the attorneys associated with Customer Number 31518, has been revoked by the assignee of the patent application on November 25, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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23 MAY 2007

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

In re Application of	:	
UCHIDA et al	:	
Application No.: 10/582,779	:	
PCT No.: PCT/JP2004/018705	:	
Int. Filing Date: 15 December 2004	:	DECISION
Priority Date: 19 December 2003	:	
Attorney Docket No.: 2006_0891A	:	
For: COMPONENT MOUNTING HEAD,	:	
SUCTION NOZZLE, AND SUCTION NOZZLE	:	
MANUFACTURING METHOD		

The decision is in response to applicants' submission filed in the USPTO on 19 January 2007 and to applicants' submission filed in the USPTO on 12 April 2007. The submissions have properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 15 December 2004, applicants filed international application PCT/JP2004/018705 which designated the United States and claimed a priority date of 19 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2006.

On 13 June 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 19 January 2007, applicants filed an executed declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 16 March 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/903) indicating, *inter alia*, that the second listed inventor's last name on the declaration differed from the second listed inventor's last name on the published international application.

On 12 April 2007, applicants filed a submission stating that the name of the second listed inventor has changed from Arai (maiden name) to Sakurai since the filing of the international application. This submission, together with the declaration of inventors filed 19 January 2007, has properly been treated as a petition under 37 CFR 1.182.

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.

Item (1) has not been met. The petition fee has not been paid.

Item (2) has not been met. No affidavit has been submitted.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 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 1.182." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 9 AUG 2007

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

In re Application of	:	
UCHIDA et al	:	
Application No.: 10/582,779	:	
PCT No.: PCT/JP2004/018705	:	
Int. Filing Date: 15 December 2004	:	DECISION
Priority Date: 19 December 2003	:	
Attorney Docket No.: 2006_0891A	:	
For: COMPONENT MOUNTING HEAD,	:	
SUCTION NOZZLE, AND SUCTION NOZZLE	:	
MANUFACTURING METHOD		

The decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.182" filed in the USPTO on 23 July 2007.

BACKGROUND

On 15 December 2004, applicants filed international application PCT/JP2004/018705 which designated the United States and claimed a priority date of 19 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2006.

On 13 June 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 19 January 2007, applicants filed an executed declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 16 March 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/903) indicating, *inter alia*, that the second listed inventor's last name on the declaration differed from the second listed inventor's last name on the published international application.

On 12 April 2007, applicants filed a submission stating that the name of the second listed inventor has changed from Arai (maiden name) to Sakurai since the filing of the international

application. This submission, together with the declaration of inventors filed 19 January 2007, was properly treated as a petition under 37 CFR 1.182.

On 12 May 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.182.

On 23 July 2007, applicants filed the instant "RENEWED PETITION UNDER 37 CFR 1.182", which was accompanied by an affidavit of Risa Sakurai.

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.

As to item (1), the petition fee under 37 CFR 1.182 is $400 rather than $130. The balance has been charged to Deposit Account 230975.

Item (2) has now been met.

Declaration of Inventors

The declaration of inventors filed 19 January 2007 is in compliance with 37 CFR 1.497(a)-(b).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE, PLC
PO BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

FEB 24 2010

OFFICE OF PETITIONS

In re Application of
Toru Yamada
Application No. 10/582,802
Filed: June 14, 2006
Attorney Docket No. 136170

DECISION ON PETITION

This is a decision on the petition, filed October 28, 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**.

Petitioner requests the Notice of Abandonment mailed June 19, 2009 for the failure to respond to the Office action mailed November 25, 2008 be withdrawn as petitioner timely filed a response. As shown by the itemized copy of the post card receipt date stamped July 20, 2009, a reply was timely received by the USPTO, and thereafter misplaced.

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

This application is being referred to Technology Center AU 1792 for appropriate action in the normal course of business on the reply received with petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

31 JUL 2006

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

In re Application of	:	
Carter et al.	:	
Application No.: 10/582,806	:	DECISION
PCT No.: PCT/AU04/01600	:	
Int. Filing Date: 18 November 2004	:	ON
Earlier Priority Date: 18 November 2003	:	
Attorney Docket No.: 1567-6 PCT/US	:	PETITION
For: Portable Boom Gate Apparatus	:	

The petition to revive under 37 CFR 1.137(b) filed 14 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	: Mitsuhiro Mori	: DECISION ON REQUEST FOR
Patent Number	: 7604263	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

05 SEP 2006

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Addison, Bradford G.
Barnes & Thornburg, Llp
11 South Meridian Street
Indianapolis, IN 46204

In re Application of :
DOYLE et al. :
U.S. Application No.: 10/582,811 :
PCT No.: PCT/US04/39142 : DECISION ON PETITION
Int. Filing Date: 22 November 2004 :
Priority Date: 16 December 2003 :
Attorney Docket No.: 31725200230 :
For: COMPOSITION AND METHOD FOR INHIBITING SALMONELLA AND CAMPYLOBACTER COLONIZATION IN POULTRY :

This decision is issued in response to applicants' "Assertion of Entitlement to Small Entity Status and Request for Refund" filed on 25 July 2006.

BACKGROUND

On 14 June 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; an oath/declaration of inventors; and a preliminary amendment.

On 25 July 2006, applicants filed "Assertion of Entitlement to Small Entity Status and Request for Refund."

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.

Copied from 10528811 on 02/07/2007

In the present case, the 25 July 2006 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was made within three-months of the payment of the large entity fees on 14 June 2006. Accordingly, petitioner is entitled to a refund of a portion of the large entity fees paid upon filing the present application.

CONCLUSION

The request for refund under 37 CFR 1.28(a) is **GRANTED**.

Deposit Account no. 10-0435 will be refunded 700.00.

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

Copied from 10528811 on 02/07/2007

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50 LEAVENWORTH STREET
P.O. BOX 1110
WATERBURY CT 06721

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,684,147 :
Issue Date: March 23, 2010 :
Application No. 10/582,813 : DECISION ON PETITION
Filed: June 14, 2006 :
Attorney Docket No. 26068-27B :

This is a decision on the Petition After Payment Of Issue Fee Under 37 C.F.R. 3.81(b) and Request For Certificate Of Correction Under 37 C.F.R. 1.323, filed March 22, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignees' name. A completed Certificate of Correction Form (PTO/SB/44) was submitted.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the failure to include the assignees' name on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that a Certificate of Correction (PTO/SB/44) be issued the correct assignees' name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i) were submitted with the Petition. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,684,147.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/01/10

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction for Appl. No.: 10582815 Patent No.: 7633850

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: **Claims 4 and 14 Approved.**

Claims 8, 11, 13 and 16 Approved with corrections

Delete -- 0>= 1> n, 0>= j > m - and add -- 0=< i < n, 0=< j < m --

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Chi H. Pham/	2471
SPE	**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Chang-Jun Ahn	: DECISION ON REQUEST FOR
Patent Number	: 7633850	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **698** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/01/10

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction for Appl. No.: 10582815 Patent No.: 7633850

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: Claims 4 and 14 Approved.

Claims 8, 11, 13 and 16 Approved with corrections

Delete -- 0>= 1> n, 0>= j > m - and add -- 0=< i < n, 0=< j < m --

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. : 7,633,850 B2

APPLICATION NO.: 10/582,815

ISSUE DATE : December 15, 2009

INVENTOR(S) : Chang-Jun Ahn

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

An error was made in Claim 4 at Column 18, Line 33:

Please delete - - convened - - and add - - converted - - .

An error was made In Claim 8 at Column 20, Line 5:

Please delete **– 0>= 1> n, 0>= | > m - and add – 0=< I < n, 0=< | < m –**

An error was made in Claim 11 at Column 20, Line 63:

Please delete **– 0>= 1> n, 0>= | > m - and add – 0=< I < n, 0=< | < m –**

An error was made in Claim 13 at Column 21, Line 38:

Please delete **– 0>= 1> n, 0>= | > m - and add – 0=< I < n, 0=< | < m –**

An error was made in Claim 14 at Column 22, Line 8:

Please delete - - out put - and add - - output - - .

An error was made in Claim 16 at Column 22, Line 43:

Please delete **– 0>= 1> n, 0>= | > m - and add – 0=< I < n, 0=< | < m –**

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Gregory D. DeGrazia, Howard & Howard Attorneys PLLC, 450 West Fourth Street, Royal Oak, MI 48067

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

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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MAR 26 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,625,912	: DECISION ON REQUEST
Arrington et al.	: FOR
Issue Date: December 1, 2009	: RECONSIDERATION OF
Application No. 10/582,826	: PATENT TERM ADJUSTMENT
Filed: June 14, 2006	: and
Atty Docket No. 21596P	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 9, 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 thirty (730) 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 thirty (730) 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 **seven hundred thirty (730)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,625,912 B2

DATED : **December 1, 2009** **DRAFT**

INVENTOR(S) : Arrington et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 565 days

Delete the phrase "by 565 days" and insert – by 730 days--

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17 JAN 2008

Philips Electronics North America Corp.
Intellectual Property and Standards
370 W. Trimble Road MS 91/MG
San Jose, CA 95131

In re Application of	:	
LILLEY, et al.	:	DECISION ON PETITION
Application No.: 10/582,837	:	
PCT No.: PCT/IB04/52741	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 09 December 2004	:	
Priority Date: 15 December 2003	:	
Atty. Docket No.: US03 0503 US2	:	
For: SYSTEM FOR CHANGING THE AMPLITUDE OF MOVEMENT FOR A POWER TOOTH-BRUSH BRUSHHEAD BY CHANGING THE DRIVE FREQUENCY OF THE TOOTHBRUSH	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 10 January 2008 in the above-captioned application is hereby **DISMISSED** as follows:

DISCUSSION

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

Regarding item 1, the proper reply was a compliant, executed declaration in response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 December 2006. However, the filed declaration is defective in that it contains two pages listed as "page 2." The Manual of Patent Examining Procedure, section 201.03 states:

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.

It appears from the papers submitted that the present declaration was compiled from various declarations. In addition, the filed declaration does not provide any specification

information as to what is being claimed. The declaration is identified as a declaration submitted with initial filing with the specification "attached hereto." That is not the case.

Regarding item 3, while applicant has provided 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 delay in responding to the Form PCT/DO/EO/905 and an examination of the response requires further information. Specifically, an examination of the filed declaration finds that the inventors executed the declaration in 2004, while the present U.S. National stage application was filed 14 June 2006. As such, the declaration appears to have been ready to have been filed with the commencement of the U.S. National stage. In order to perfect the statement of unintentional abandonment, applicant must provide further information as to the presentation of the declaration to the inventors, as well as, the preparation of the present petition and response.

This application remains abandoned as to the National stage in the United States.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.137(b) 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 1.137(b)." No additional 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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27 MAR 2008

Philips Electronics North America Corporation
Intellectual Property & Standards
370 W. Trimble Road MS 91/mg
San Jose, CA 95131

In re Application of LILLEY, et al. Application No.: 10/582,837 PCT No.: PCT/IB04/52741 Int. Filing Date: 09 December 2004 Priority Date: 15 December 2003 Atty. Docket No.: US03 0503 US2 For: SYSTEM FOR CHANGING THE AMPLITUDE OF MOVEMENT FOR A POWER TOOTH-BRUSH BRUSHHEAD BY CHANGING THE DRIVE FREQUENCY OF THE TOOTHBRUSH	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 11 March 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant has provided further evidence to support the original 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." The currently filed declaration by Paul Im supports the statement that the abandonment of the present application was unintentional. The exhibits and the prompt filing of the renewed petition satisfies the requirement of 37 CFR 1.137(b)(3).

In addition, applicant has now provided an executed combined declaration and power of attorney in response to the Form PCT/DO/EO/905 mailed 08 December 2006. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The application has an international filing date of 09 December 2004 under 35 U.S.C. 363 and will be given a date of **11 March 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,850	06/14/2006	Bertram Cezanne	MERCK-3185	6766

23599 7590 12/24/2009
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER
JARRELL, NOBLE E

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
12/24/2009	ELECTRONIC

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

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

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

docketing@mwzb.com

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

Brion P. Heaney
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of:	:	
CEZANNE et al.	:	DECISION
Serial No: 10/582,850	:	ON
Filed: June 14, 2006	:	PETITION
Attorney Docket No: MERCK-3185	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on December 29, 2008.

BACKGROUND

This application was filed as a national stage application in compliance with under 35 U.S.C. 371 and as such is subject to PCT unity of invention practice.

On February 6, 2008 a restriction requirement was mailed to applicant setting forth 11 groups and requiring an election of species. The examiner referred to the "Markush" practice guidelines and argued that a common core was not present. In addition, the examiner asserted that a preliminary search of the core yielded numerous iterations and that thus a common special technical feature was not present.

In the paper filed March 28, 2008 applicant elected Group I (claims 1-5 & 7-29) and stated that claims 1-37 read on the elected group. Applicant elected the species (R)-1-(4-chlorophenyl)-3-[2-(1'-methyl-4,4'-bipiridinyl-1-yl)-2-oxo-1-phenylethyl]urea. Applicant's traversal stated:

> The compounds share a common activity or property as discussed in applicants' specification. Additional, the alternatives will share a common significant structure,

> namely a central piperidinyl ring, when Z, Z' and E form a piperidine ring. Thus, applicants respectfully request that groups III, IV, and IX (as well as any relevant compounds within group XI) be examined with the elected Group I as to those compounds in which Z, Z' and E form a piperidine ring.

Applicant additionally amended claims 23-29 to be method of use of the compounds of claim 1 and introduced new claims 30-37 directed to two subgenuses of claim 1.

In the Office Action of May 21, 2008 the examiner responded to applicant's traversal as follows:

> This is not found persuasive because when fairly considered, there is not seen a significant common core for compounds of groups I-XI. In group I, a combination of variables Z, Z', and E form a piperidine ring. In group II, a combination of variables Z, Z', and E form a piperazine ring. In addition, each of these groups differs by variable T. Variable T is piperidine in group I and phenyl in group II. A search for these two groups cannot be considered co-extensive.

The examiner made no comment as to whether or not the amendments to claims 23-29 presented an invention having unity of invention with the elected group nor did he address whether claims 30-37 had unity of invention with the elected group.

Applicant's response of June 25, 2008 reiterated the arguments presented in response to the original restriction requirement.

Applicant filed the instant petition December 29, 2008 which essentially reiterates his previous arguments and additionally presents arguments relating to MPEP §803.02 with emphasis on *In re Harnish* (206 USPQ 300 (CCPA 1980)) and *Ex parte Hozumi* (3 USPQ2d (Bd.Pat.App. & Int. 1984)).

DISCUSSION

> As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

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.

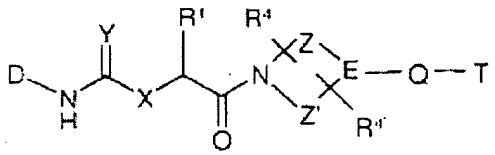
If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.

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.

PCT/GL/ISPE/1 Chapter 10 Unity of Invention provides examples regarding unity of invention when a Markush group is claimed. 10.44 Example 24 appears particularly relevant to the instant claims.

Claim 1: A pharmaceutical compound of the formula:
A – B – C – D – E
wherein:
A is selected from C_1-C_{10} alkyl or alkenyl or cycloalkyl, substituted or unsubstituted aryl or C_5-C_7 heterocycle having 1-3 heteroatoms selected from O and N;
B is selected from C_1-C_6 alkyl or alkenyl or alkynyl, amino, sulfoxy, C_3-C_8 ether or thioether;
C is selected from C_5-C_8 saturated or unsaturated heterocycle having 1-4 heteroatoms selected from O, S or N or is a substituted or unsubstituted phenyl;
D is selected from B or a C_4-C_8 carboxylic acid ester or amide; and
E is selected from substituted or unsubstituted phenyl, naphthyl, indolyl, pyridyl, or oxazolyl.
From the above formula no significant structural element can be readily ascertained and thus no special technical feature can be determined. Lack of unity exists between all of the various combinations. The first claimed invention would be considered to encompass the first mentioned structure for each variable, that is, A is C_1 alkyl, B is C_1 alkyl, C is a C_5 saturated heterocycle having one O heteroatom, D is C_1 alkyl, and E is a substituted phenyl.

Claim 1 as originally presented recites the following structure:

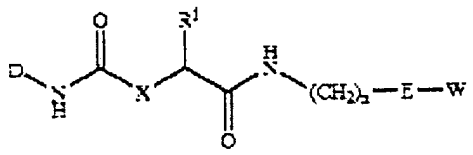


In order that claim 1 has unity of invention it must have a special technical feature which is a contribution over the prior according to PCT Rule 13. The examiner presented search evidence that structures within the scope of claim 1 were known in the prior art, however, no actual prior art was cited.

Given that claim 1 lacked unity of invention the examiner must then consider whether the dependent claims possess unity of invention. This presents significant difficulties with respect to claims 1-21 as they directly depend from claim 1 and define different subgenera. However, such an analysis is incumbent on the examiner.

The examiner set forth groups, one of which is a catchall group, based on the Markush practice analysis suggested for applications filed under §371. Such an analysis should have followed the guidance of Example 24 cited above and should have included the dependant claims. The end result of such an analysis would have been a holding of lack of unity potentially resulting in thousands of groups.

US 20040038858, which was of record at the time of the restriction requirement, is the English equivalent of WO 02/48099 and has four inventors in common with the instant application and sets forth the following:



[0002] in which

[0003] D is phenyl or pyridyl, each of which is unsubstituted or monosubstituted or polysubstituted by Hal, A, OR^2, $N(R^2)_2$, NO_2, CN, $COOR^2$ or $CON(R^2)_2$,

[0004] R^1 is H, Ar, Het, cycloalkyl or A, which may be substituted by OR^2, SR^2, $N(R^2)_2$, Ar, Het, cycloalkyl, CN, $COOR^2$ or $CON(R^2)_2$,

[0005] R^2 is H or A,

[0006] E is phenylene, which may be monosubstituted or polysubstituted by Hal, A, OR^2, $N(R^2)_2$, NO_2, CN, $COOR^2$ or $CON(R^2)_2$, or is piperidine-1,4-diyl,

[0007] W is Ar, Het or $N(R^2)_2$ and, if E=piperidine-1,4-diyl, is alternatively R^2 or cycloalkyl,

[0008] X is NH or O,

[0009] A is unbranched or branched alkyl having 1-10 carbon atoms, in which one or two CH_2 groups may be replaced by O or S atoms and/or by —CH=CH— groups and/or in addition 1-7 H atoms may be replaced by F,

[0010] Ar is phenyl which is unsubstituted or monosubstituted, disubstituted or trisubstituted by Hal, A, OR^2, $N(R^2)_2$, NO_2, CN, $COOR^2$, $CON(R^2)_2$, NR^2COA, NR^2SO_2A, COR^2, SO_2NR^2, SO_3H or $S(O)_mA$,

[0011] Het is a monocyclic or bicyclic, saturated, unsaturated or aromatic heterocyclic radical having from 1 to 4 N, O and/or S atoms, which may be unsubstituted or monosubstituted, disubstituted or trisubstituted by Hal, A, OR^2, $N(R^2)_2$, NO_2, CN, $COOR^2$, $CON(R^2)_2$, NR^2COA, NR^2SO_2A, COR^2, SO_2NR^2, SO_3H, $S(O)_mA$ and/or carbonyl oxygen,

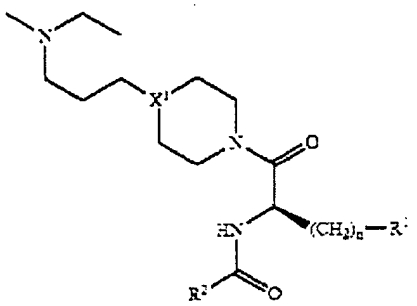
[0012] Hal is F, Cl, Br or I,

[0013] n is 0 or 1,

[0014] m is 0, 1 or 2,

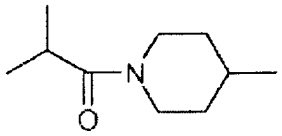
The compounds described above are a subgenus of the compounds presented in claim 1 of the instant application. In particular, the combination of (E, W) in the '858 publication is a subgenus of T of the instant application when n=0.

WO 03/050199 sets forth the following structure:



The compounds within the scope of the genus in '199 differ appear to fall within the scope of claim 1 of the instant application because $(CH_2)_n$-R^1 is a subgenus of A of instant claim 1 when A contains 3 carbons and is substituted by 3 fluorines.

Applicant has argued that there is a central core which is



However, WO 03/050199 teaches such a core which means that the core does not constitute a special technical feature which would link Groups III, IV and IX.

The examiner's remarks concerning search burden are not consonant with Lack of Unity practice.

The examiner's requirement for an election of species and the remarks attendant thereto are confusing. MPEP §1893.03(d) provides guidance with respect to lack of unity and in particular references form paragraph ¶18.20. Claim 22 is the sole claim in which species are recited and the examiner has provided no explanation as to why the species of claim 22 lack unity of invention nor which broader claims embrace them.

Applicant's arguments with regard to MPEP §803.02 with emphasis on *In re Harnish* (206 USPQ 300 (CCPA 1980)) and *Ex parte Hozumi* (3 USPQ2d (Bd.Pat.App. & Int. 1984)) relate to applications not filed under the provisions of 35 USC §371. To the extant that said arguments apply to cases filed under §371 the arguments are not persuasive as they are predicated on the presence of a common core which would confer unity of invention. But it is clear from the art

discussed above that the common core was known in the art and thus cannot confer unity of invention.

DECISION

Applicant's originally filed claims do not possess unity of invention as there is prior art teaching species within the scope of applicant's claims-claim 21 is excepted. Based on the prosecution of the application at least the first species recited in claim 21 appears free of the prior art. However, it is unresolved whether all the species within claim 21 share a common core which is a contribution over the prior art.

Thus, upon the resumption of prosecution the examiner needs to determine if the species recited within claim 21 share a common core and to further establish the relationship of the species of claim 21 to claims 1-20 as well as claims 30-37.

Following his determination the examiner is to either set forth a new restriction requirement or withdraw the requirement altogether.

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

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.

Remy Yucel
Director, Technology Center 1600

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PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Matsuoka et al. :
Application No. 10/582,862 :
Filed: June 14. 2006 :
For: SPEAKER-CHARACTERISTIC COMPENSATION METHOD FOR MOBILE TERMINAL DEVICE :

This is a decision on the petition filed August 9, 2007, which is being treated as a petition under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and withdraw any holding of abandonment and restart the period for reply due to lack of e-notification..

The petition is **granted**.

Petitioner asserts that the "e-notification" of the May 4, 2007, Office action which did require a reply was not received, while an e-notification for the PG Pub notice of May 3, 2007, which did not require a reply, did generate an e notification. However, due to processing delays within the USPTO the indications of the Office action was not immediately available for inspection in the Private Pair records, such that petitioner was unaware of its force and effect. Petitioner further asserts that a subsequent conversation with the Electronic Business Center (EBC) of the USPTO indicates that by way of a programming error at the USPTO, the e-notification specific to that Office action was not sent.

Effective December 16, 2006, the USPTO began a pilot program to provide a limited number of Private PAIR users with the option of receiving electronic notification of some outgoing correspondence related to their US patents and US national patent applications retrievable through Private PAIR instead of a paper mailing of the correspondence. See 1314 *Off. Gaz. Pat. Office* 1321 (Jan. 16, 2007); 1319 *Off. Gaz. Pat. Office* 145 (June 26, 2007).

The EBC has confirmed that while an e-notification will be sent for a given outgoing communication from the USPTO, the record of that notification may operate to "mask" other outgoing correspondence "mailed" at about the same time, such that a second, separate e-notification is not generated. The USPTO regrets the error and inconvenience, and that software fault has been corrected.

This application is being referred to the Technology Center for "remailing" the Office action of and restarting the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner

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

In re Application of	:	DECISION ON REQUEST TO
Masaki IWASAKI et al	:	PARTICIPATE IN PATENT
Application No. 10/582873	:	PROSECUTION HIGHWAY
Filed: June 14, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 292122US0PCT	:	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 September 21, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kathryn Gorgos
TQAS TC 1700

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NEW BRUNSWICK NJ 08933-7003

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JUL 14 2010

OFFICE OF PETITIONS

In re Application
Malyska, et al.
Application No. 10/582,887
Filed: June 18, 2007
Dkt. No.: MTS5003USPCT

: PATENT TERM ADJUSTMENT

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed May 4, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is at least 789 days, not 317 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar 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 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.

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].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, 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 application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[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.

08 SEP 2006

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of	:	
KIM, Sok-Bom et al.	:	
Application No.: 10/582,890	:	
PCT No.: PCT/KR03/02496	:	DECISION
Int. Filing Date: 19 November 2003	:	
Priority Date: None	:	ON PETITION UNDER
Docket No.: CU-4882 WWP	:	
For: METHOD FOR SETTING SUBSTITUTE RINGBACK TONE OF CALLING PARTY IN MOBILE COMMUNICATION SYSTEM	:	37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 14 June 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.

Applicants have 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. 12-0400, 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 14 June 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

09/11/2006 SBASHEIR 00000003 120400 10582890
01 FC:1617 130.00 DA

Telephone: 571-272-3292
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31 JUL 2006

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Dilworth & Barrese
333 Earle Ovington Blvd.
Suite 702
Uniondale NY 11553

In re Application of	:	
De Kleine et al.	:	
Application No.: 10/582,916	:	DECISION
PCT No.: PCT/EP04/52615	:	
Int. Filing Date: 21 October 2004	:	ON
Earliest Priority Date: 24 October 2003	:	
Attorney Docket No.: 1321-114 PCT US	:	PETITION
For: Process To Prepare Alkyl Phenyl Phosphates	:	

The petition to revive under 37 CFR 1.137(b) filed 14 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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MAR 24 2010

OFFICE OF PETITIONS

In re Patent of Kobayashi et al.	:	DECISION ON REQUEST
Patent No. 7,586,277	:	FOR RECONSIDERATION OF
Issue Date: September 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/582,931	:	AND NOTICE OF INTENT TO
Filing Date: June 14, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 18733/00240	:	CORRECTION

This is a decision on the petition filed on October 2, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by four hundred ninety-two (492) 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 ninety-two (492) days is **GRANTED to the extent indicated herein**.

The first issue to be addressed is the propriety of the Office reducing the patent term adjustment by 48 days as a result of a letter received July 23, 2009.

On July 23, 2009, applicants filed a two-page issue fee transmittal letter along with a issue fee transmittal form (PTOL-85b). Both the letter and the sheet indicated the Office should charge the law firm's deposit account for the issue fee, publication fee, and an advance order of eight copies of the patent.

A review of the Electronic Acknowledgment Receipt for the July 23, 2009 papers indicates the letter was filed with a Document Description of "Post Allowance Communication - Incoming" and the PTOL-85b form was filed with a description of "Issue Fee Payment (PTO-85b)."

The letter filed July 23, 2009 was coded as a Miscellaneous Incoming Letter in the Office's computer system. As a result, the Office entered a reduction in patent term adjustment of 48 days due to delay under 37 C.F.R. § 1.704(c)(10).

37 C.F.R. § 1.704(c)(10) states a failure to engage in reasonable efforts to

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months.

MPEP 2732 states,

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. *See Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

MPEP 2732 indicates a "Fee(s) Transmittal (PTOL- 85B)" is a paper that will not result in a reduction under 37 C.F.R. § 1.704(c)(10). The July 23, 2009 letter was, in essence, a fee transmittal letter that did not delay issuance of the patent. Therefore, a reduction of 48 days was improper.

The second issue to be addressed is the extent to which the patent term adjustment should have been increased as a result of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").[1]

In this case, B Delay is the number of days beginning on the day after the date three years after the national stage commenced under 35 U.S.C. 371(b) or (f) and ending on the date the patent issued.

The date of commencement is June 14, 2006. The day after the date three years after the date of commencement is June 15, 2009. The date of issuance is September 8, 2009. B Delay is 86 days which is the number of days beginning on June 15, 2009, an ending on September 8, 2009.

The period of B Delay does not overlap with any delay under 35 U.S.C. § 154(b)(1)(A). Therefore, the Office should have increased the patent term adjustment by 86 days for B Delay.

---

[1] Patentees do not discuss the issue of B Delay. However, in view of the fact a "Request for Recalculation of Patent Term" form was filed February 11, 2010, the Office has chosen to address the issue of B Delay as part of the instant decision.

Conclusion

The Office's entry of a 48-day reduction for the July 23, 2009 letter was improper and the reduction has been removed.

The patent term adjustment should have been increased by 86 days as a result of B Delay.

The patent listed a patent term adjustment of 444 days. In view of the prior discussion, the patent term adjustment is 578 days.

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **five hundred seventy-eight (578)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,586,277 B2
ISSUE DATE	:	September 8, 2009
INVENTOR(S)	:	Kobayashi et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 444 days.

Delete the phrase "by 444 days" and insert - by 578 days--

US007586277B2

(12) United States Patent
Kobayashi et al.

(10) Patent No.: US 7,586,277 B2
(45) Date of Patent: Sep. 8, 2009

(54) ELECTRIC POWER STEERING DEVICE

(75) Inventors: **Hideyuki Kobayashi**, Maebashi (JP); **Toru Sakaguchi**, Maebashi (JP); **Takeshi Hara**, Maebashi (JP); **Sakae Nejo**, Maebashi (JP)

(73) Assignee: **NSK Ltd.**, Tokyo (JP)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 444 days.

(21) Appl. No.: **10/582,931**

(22) PCT Filed: **Dec. 3, 2004**

(86) PCT No.: **PCT/JP2004/018425**

§ 371 (c)(1),
(2), (4) Date: **Jun. 14, 2006**

(87) PCT Pub. No.: **WO2005/058672**

PCT Pub. Date: **Jun. 30, 2005**

(65) **Prior Publication Data**

US 2007/0120511 A1 May 31, 2007

(30) **Foreign Application Priority Data**

Dec. 16, 2003 (JP) 2003-417689

(51) **Int. Cl.**
H02P 7/00 (2006.01)

(52) **U.S. Cl.** **318/432**; 318/434; 318/599; 318/811

(58) **Field of Classification Search** 318/432, 318/434, 599, 811
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,837,692 A 6/1989 Shimizu 364/424.05
5,404,960 A * 4/1995 Wada et al. 180/446

FOREIGN PATENT DOCUMENTS

EP 0 659 629 A2 6/1995

(Continued)

OTHER PUBLICATIONS

WO 2005/058672 A1, concerning International Application No. PCT/JP2004/018425, cites the following documents in the order they appear in the International Search Report (ISR) (with an English-language translation thereof.

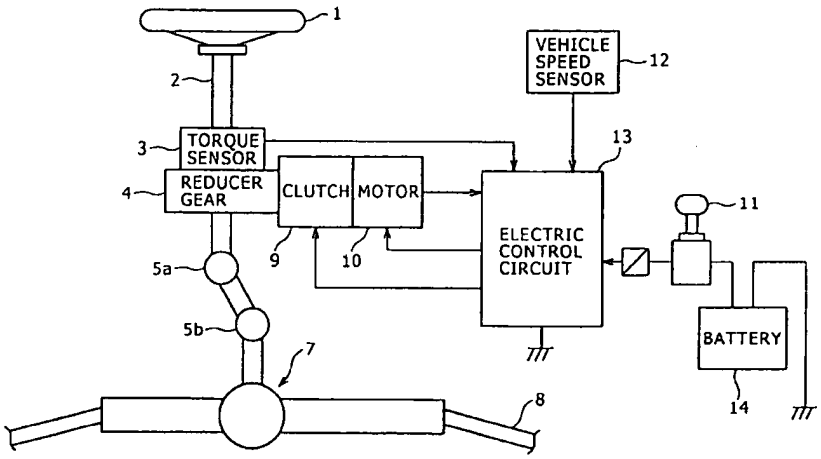
(Continued)

Primary Examiner—Rina I Duda
Assistant Examiner—Erick Glass
(74) *Attorney, Agent, or Firm*—Sidney Austin LLP

(57) **ABSTRACT**

An electric power steering device changes the discontinuous non-linear characteristics in the duty ratio of the PWM signal versus motor current generated during steering wheel handle return into linear characteristics to suppress noise and provides a smooth and natural feeling steering. The electric control circuit (**13**) provided a current reference value calculator (**22A**) to calculate I_{ref}, a current controller (**22B**) to obtain V_{ref2}, a compensation adder (**25**) to obtain a duty D1, and a current discontinuity compensator (**24**) in order to obtain a duty D2. A motor drive circuit (**35**) including an H bridge circuit whose upper stage FET (**1**) is driven by the duty D1, and whose lower stage FED (**3**) paired with the upper stage FET (**1**), is driven by the duty D2 to allow forming a continuous linear characteristic in the duty ratio of the PWM signal versus the motor current.

8 Claims, 9 Drawing Sheets



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Mail Date: 04/20/2010

Applicant	: Hideyuki Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7586277	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **664** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of

BRYHN, Morten et al.
Application No. 10/582,978
Filed: June 15, 2006
Attorney Docket No. **10400-000085/US/NPB**

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 23, 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 Donald J. Daley on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MORTEN BRYHN**
STORGATAN 43
NO-3060 SVELVIK
NORWAY

cc: **ANTHONY TRIDICO**
FINNEGAN HENDERSON
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WASHINGTON, DC 20001-4413

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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
10/582,978	06/15/2006	Morten Bryhn	10400-000085/US/NPB

CONFIRMATION NO. 8212

OC000000024903622

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Date Mailed: 07/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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

Applicant: Strom et al.
Appl. No.: 10/582,988
International Filing Date: July 8, 2004
Title: IMAGE PROCESSING
Attorney Docket No.: 4147-163
Pub. No.: 2007/0140554 A1
Pub. Date: June 21, 2007

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OFFICE OF PETITIONS

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on July 24, 2007 and August 22, 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 PCT application No and the foreign priority data were not published correctly on the front page of the publication.

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

The request for corrected publication, received on August 22, 2007, was not timely filed under 37 CFR 1.221(b).

The error in misprinting the PCT application number and the foreign priority may be Office errors, but they are not material Office errors under 37 CFR 1.221. The misprint with respect to the PCT Application No. does not affect the understanding of the application, as it is an alternative way to write the application number. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the

[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).

scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

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 O. Polutta at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Shigeki Satou	: DECISION ON REQUEST FOR
Patent Number	: 7572477	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/582,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Koichi Miyachi et al :
Application No. 10/582,998 :
Filed: June 14, 2006 :
Attorney Docket No. 1035-643

ON PETITION

This is a decision on the petition, filed November 13, 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 October 13, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2883 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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c/o MERCK
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

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OFFICE OF PETITIONS

In re Application
Adam-Worrall
Application No. 10/583,013
Filed: June 15, 2006
Dkt. No.: 2003.807US

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed March 1, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 72 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar 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 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.

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].

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e).

However, 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 application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[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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0 8 DEC 2006

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Application of:	:	
ALLIKMETS, Ene, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/583,014	:	
PCT No.: PCT/US2004/041801	:	
International Filing Date: 10 December 2004	:	
Priority Date: 19 December 2003	:	
Atty Docket No.: AM101242	:	
For: SERUM-FREE VERO CELL	:	
BANKING PROCESS	:	

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally" filed 16 November 2006, treated herein as a petition for withdrawal of the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 10 December 2004, applicants filed international application PCT/US2004/041801. The international application claimed a priority date of 19 December 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., 19 June 2006.

On 15 June 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, an executed declaration. The Transmittal Letter filed by applicants authorized a charge to Deposit Account No. 01-1435 for the basic national fee (as well as the search and examination fees).

On 02 October 2006, 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 provide the "full U.S. Basic National Fee by 30 months." Specifically, the Notification indicated that the Deposit Account provided by applicants was not valid.

On 16 November 2006, the petition considered herein was filed. Although the petition is entitled "Petition For Revival Of An Application For Patent Abandoned Unintentionally," it does not include the petition fee and statements required for such a petition under 37 CFR 1.137(b). Accordingly, the petition is treated herein as a petition under 37 CFR 1.181 seeking withdrawal of the holding of abandonment.

DISCUSSION

Pursuant to 35 U.S.C. 371(d)(4) and 37 CFR 1.495(h), the failure to timely pay the basic national fee results in the abandonment of the application with respect to the United States. This is a statutory requirement that cannot be waived by the USPTO.

Here, applicants' only attempt to pay the basic national fee prior to the expiration of the thirty-month deadline was ineffective in that it consisted of an authorization to charge a non-existent Deposit Account for the required fee. The present petition confirms that the Deposit Account provided by applicants was not correct. Regardless of whether the incorrect Deposit Account provided by applicant was the result of a typographical error, the fact is that a valid form of payment of the basic national fee was not filed in the USPTO prior to the expiration of the thirty-month deadline.

The present petition does not provide evidence that an acceptable payment of the basic national fee was submitted before the expiration of the thirty-month deadline. Withdrawal of the holding of abandonment is therefore not appropriate on the present record.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The present application remains abandoned with respect to the United States of America.

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 1.181" and must include an adequate showing that an acceptable form of payment of the basic national fee was filed in the USPTO prior to the expiration of the thirty-month deadline at midnight on 19 June 2006.

In the alternative, applicants may consider filing a petition for revival of an unintentionally abandoned application under 37 CFR 1.137(b), with all required elements, including the petition fee.

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

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

18 DEC 2006

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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Application of:	:	
ALLIKMETS, Ene, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/583,014	:	
PCT No.: PCT/US2004/041801	:	
International Filing Date: 10 December 2004	:	
Priority Date: 19 December 2003	:	
Atty Docket No.: AM101242	:	
For: SERUM-FREE VERO CELL	:	
BANKING PROCESS	:	

The petition to revive under 37 CFR 1.137(b) filed 15 December 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 of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including requiring applicants to submit any additional required fees (i.e., search fee, examination fee, and the surcharge for filing the search and examination fee later than thirty months after the priority date).

The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 December 2006.

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

2 9 MAR 2007

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

In re Application of	:
FAITA et al.	:
Application No.: 10/583,023	:
PCT No.: PCT/EP04/014420	: DECISION on
Int. Filing Date: 17 December 2004	:
Priority Date: 19 December 2003	:MERGING APPLICATION FILES
Attorney Docket No.: 19214-016US1	:
For: MEMBRANE FUELL CELL COUNTERCURRENT	:
FED WITH NON-HUMIDIFIED AIR	:

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 17 December 2004 , applicant filed international application No. PCT/EP04/14420, which claimed priority of an earlier international application filed 19 December 2003 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 June 2005. The deadline for entering the U.S. national stage to 30 months or as of midnight on 19 June 2006.

On 15 June 2006, applicant filed, through the law firm of Fish & Richardson, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). The submission, identifying PCT/EP04/14420, was assigned U.S. application number: 10/583,023. An oath or declaration was not filed with the national stage entry.

On 5 February 2007, applicant, through the law firm of Hedman and Costigan, filed another Transmittal Letter referencing PCT/EP04/14420 and requesting entry into the national stage in the United States. This communication was accompanied by, *inter alia*, a copy of the international application PCT/EP04/14420 and a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b). An unexecuted declaration was also filed.

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 15 June 2006 and on 05 February 2007. The end result for an international application designating the United States of America is a single U.S. national stage application[1]. Therefore, assigning a second U.S. application number arising from PCT/EP04/14420 is improper.

Applicant's petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is considered MOOT. The papers filed on 05 February 2007 will be merged with application no. 10/583,023. All fees paid on 05 February 2007 will be refunded to applicant's credit card.

Applicant is advised to use U.S. application number: 10/583,023 as the national stage application of PCT/EP04/14420.

CONCLUSION

Applicant's petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is **MOOT**. The papers filed on 05 February 2007 will be merged with application no. 10/583,023.

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 an oath or declaration, in compliance with 37 CFR 1.497(a) & (b) and executed by the inventors, is required..

Cynthia M. Kratz
Attorney/Advisor

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[1] 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.

PCT Legal Office

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

cc: CHARLES A. MUSERLIAN
HEDMAN AND COSTIGAN
1185 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Francesco Gentile	: DECISION ON REQUEST FOR
Patent Number	: 7572189	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **323** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Leea Susanne Somersalo
DODDS AND ASSOCIATES
1707 N. Street, NW
Washington, DC 20036

In re Application of	:	
DZHAVAKHIA et al.	:	
Serial No.: 10/583,066	:	Decision on Petition
Filed: October 6, 2006	:	
Attorney Docket No.: Korpela MF3	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.144 filed on October 20, 2008 requesting reconsideration of the restriction and/or lack of unity requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/FI04/00766 and as such, is eligible for unity of invention practice.

On March 6, 2008, the examiner mailed to the applicant a restriction requirement under 35 USC 121 and 372 requiring applicant to elect between

Group I, claims 1, 3-4, 8-9, and 11-13, drawn to a MF3 polypeptide, a composition comprising the polypeptide, and a method of using the polypeptide;
Group II, claims 2, 5-7, and 14-15, drawn to DNA encoding MF3, a vector comprising the DNA, and a plant/cell transformed with the DNA; and
Group III, claim 10, drawn to a method of isolating an purifying the MF3 polypeptide.

The examiner reasoned that the claimed inventions failed to share a special technical feature, since the Djavakhia et al. (US 6,528,480), disclosed an MF2 polypeptide which meets the limitations of the recited functional derivative of MF3 polypeptide.

On April 4, 2008, applicants elected, with traverse, Group II, arguing that Djavakhia et al. disclosed a protein that did not share specific characteristics with the instantly disclosed polypeptide.

On July 22, 2008, the examiner mailed to applicants a non-final Office Action. In the action, the examiner considered applicants' traversal of the restriction requirement and found them unpersuasive because they were directed to features that were not claimed. The examiner made the restriction requirement final. Claims 1, 3-4, and 8-13 were withdrawn from consideration as being directed to a non-elected invention. The following objections and rejections were made:

1) Claims 2, 5-7, and 14-15 were objected to as depending from a withdrawn claim.

2) Claims 2, 5-7, and 14-15 were rejected under 35 USC 112, second paragraph, as being indefinite.

3) Claims 2, 5-7, and 14-15 were rejected under 35 USC 112, first paragraph, for scope of enablement.

4) Claims 2, 5-7, and 14-15 were rejected under 35 USC 112, first paragraph, for failing to comply with the written description requirement.

5) Claims 2, 5-7, and 14-15 were rejected under 35 USC 102(b) as being anticipated by Djavakhia et al. (WO 97/05165).

On October 20, 2008, applicants submitted a response including the instant petition, amendments to the claims and specification, and remarks traversing the objection and rejections.

DISCUSSION

The petition and file history have been carefully considered.

Claim 1, as amended in the response received October 20, 2008, appears below:

> **1. (Currently amended) A bioactive polypeptide, MF3, with a primary structure depicted in SEQ ID NO: 1, <u>or</u> an active fragment of MF3 <u>according to SEQ ID NO: 3 or SEQ ID NO:4</u>, ~~or any functional derivative of MF3~~, said polypeptide, <u>or</u> active fragment ~~or functional derivative~~ being capable of effecting a resistance of a plant against microbial diseases and/or against attack of plant parasites.**

The petition correctly states that Djavakhia et al. (US 6,528,480) does not teach the claim as now amended.

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

> Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. (paragraph 10.02)

In this instance, a lack of unity cannot be maintained based on the failure of the claimed invention to make a contribution over the prior art. Therefore, the restriction requirement must be withdrawn.

DECISION

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

The restriction requirement set forth between Group I, II and III is withdrawn.

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed October 20, 2008.

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

Mike Wityshyn
Acting Director, Technology Center 1600

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JUL 11 2007

TECHNOLOGY CENTER 2100

James Ledbetter
STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON, DC 20036

In re Application of: LOHR, et al.
Application No. 10/583,090
Filed: 15 June 2006
For: HARQ PROTOCOL WITH SYNCHRONOUS RETRANSMISSIONS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 26 July 2006, to make the above-identified application special, under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 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 this case, the petition fails to properly discuss the claimed subject matter in accordance with the section (e) requirements supra.

The petition filed 26 July 2006 fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). In particular, the instant petition specifically and only references independent claim 28 (although there are three independent claims in the instant application, i.e. claims 28, 41 and 51). Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the pending independent claims (i.e. 28, 41 and 51) is specifically distinguishable and patentable from the references provided in requirement (d) above.

Further, the petition filed January 26 July 2006 repeats **substantially the entirety** of the independent claim language (claim 28) and identifies all limitations as those limitations that the reference(s) do not show or suggest, thus the petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not specifically recite language or limitations from the independent claims to properly compare/contrast the claimed invention (each of the independent claims) with respect to the prior art in the identified references. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for each independent claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference.

Petitioner should ensure that the discussion of the particular claim limitations accurately reflects the language found in each of the independent claims (emphasis added). Note, the recitations "a NACK feedback message", "the mobile station transmits ..." and "even though ..." found in the instant petition discussion on page 10, do not appear to be found in claim 28 as argued. From the foregoing, it is clear that the petition's discussion is not commensurate with the instant language found in pending claim 28.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, for each independent claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Finally, Petitioner should ensure that each and every reference deemed to be the most closely related references (identified and set forth in item (d) above), is addressed in the discussion and/or specifically identify those references that are not deemed to be closely related. The instant petition appears to set forth 15 references deemed to be most closely related, but only discusses patentability with respect to seven of those references.

Petition to Make Special **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.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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AUG 17 2007

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In re Application of: LOHR, et al.
Application No. 10/583,090
Filed: 15 June 2006
For: HARQ PROTOCOL WITH SYNCHRONOUS RETRANSMISSIONS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 11 September 2007, to make the above-identified application special, under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination, originally filed on 26 July 2006 and dismissed on 11 July 2007.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

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

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

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

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have now been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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1 1 JUN 2007

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DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD NH 03301

In re Application of	:	DECISION ON
SKRYABIN et al	:	
PCT No.: PCT/AU2004/001768	:	
Application No: 10/583,121	:	
Int. Filing Date: 17 December 2004	:	PETITION UNDER
Priority Date: 18 December 2003	:	
Attorney's Docket No.: GRIHAC P48AUS	:	
For: METHOD FOR...	:	
NANO-PARTICULATE LAYERS	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR .147(a)" filed on 10 April 2007. The petition fee of 200.00 has been paid.

BACKGROUND

On 17 December 2004, applicants filed international application PCT/AU2004/001768, which claimed priority to an earlier application filed 18 December 2003.

On 16 June 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 19 March 2007, petitioner filed the present petition under 37 CFR 1.47(a) accompanied, *inter alia*, with a declaration in support of filing on behalf of omitted inventor Igor SKRYABIN, and an executed Declaration without the signature of Igor Lvovich SKRYABIN.

On 02 April 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 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. All of the items set forth must be submitted within two months from date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 10 April 2007, petitioner re-filed the present petition under 37 CFR 1.47(a) that was originally filed on 19 March 2007.

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

Regarding item (1), petitioner has provided the fee under 37 CFR 1.17(g).

Regarding item (2), the statements by Bujold are insufficient to support a finding that the nonsigning inventor, Dr. Skryabin refuses to sign the declaration because based on the communication dated 01 November 2006 by Dr. Skryabin there appears to be a disagreement by the parties, which has not be clarified by petitioner.

In addition, in this case Mr. Bujold has not sufficiently demonstrated that a complete copy of the application papers were presented to the non-signing inventor, Dr. Skryabin. Petitioner has not stated that the complete copy of the application papers (specification, including claims, drawings, and oath or declaration) were sent to Dr. Skryabin and that he refused to sign the required papers as stipulated under MPEP 409.03(d). The letter to Dr. Skryabin by Mr. Bujold only refers to the Oath and the Power of Attorney being for Dr. Skryabin but is silent about the patent applications (it just refers to three applications) being included in the correspondence sent to him for his review.

Accordingly, the current record does not support the premise that Dr. Skryabin's conduct constitutes refusal since he was not given until the deadline to provide the documents.

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

Regarding item (4), petitioner has provided an executed declaration signed by Graeme Leslie EVANS on his behalf and on the behalf of the nonsigning joint inventor Igor Lvovich SKRYABIN.

Consequently, at this time it can not be concluded that Dr. SKRYABIN had refused to sign the documents based on the evidence provided and the date the petition was filed.

DECISION

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

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

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

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

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

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3 1 OCT 2007

DAVIS & BUJOLD, P.L.L.C.
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CONCORD NH 03301

In re Application of	:	DECISION ON
SKRYABIN et al	:	
PCT No.: PCT/AU2004/001768	:	
Application No: 10/583,121	:	
Int. Filing Date: 17 December 2004	:	RENEWED PETITION
Priority Date: 18 December 2003	:	
Attorney's Docket No.: GRIHAC P48AUS	:	
For: METHOD FOR...	:	
NANO-PARTICULATE LAYERS	:	UNDER 37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a) AND REQUEST FOR ONE (1) MONTH EXTENSION OF TERM" filed on 15 October 2007.

BACKGROUND

In a decision from this Office on 11 June 2007, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that the petition did not include sufficient factual proof that Dr. Skryabin refused to sign the required papers.

On 15 October 2007, applicant submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 11 June 2007 with respect to accepting the above application without the signature of nonsigning inventor Dr. Skryabin. Filed with the renewed petition is a declaration by Mr. Bujold explaining the disagreements and that copy of the application papers of 10/583,121 were sent to Dr. Skryabin and that he has refused to sign those papers.

DISCUSSION

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

The renewed petition of 15 October 2007 has satisfied the items under 37 CFR 1.47(a).

Mr. Bujold's averments do sufficiently demonstrate 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, Dr. Skryabin for his signature as stipulated under MPEP 409.03(d). Mr. Bujold has also explained the disagreement between Dr. Skrybin and Dyesol LTD. The conduct of Dr. Skrybin is interpreted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish that Dr. Skryabin refusal to join in the application because petitioner has shown a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c) date of **19 March 2007.**

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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January 11, 2010 BC

In re application of Igor L. Skryabin et al. Serial No. 10/583,121 Filed: June 06, 2006 For: METHOD FOR ELECTROLYTIC ENGINEERING OF NANO-PARTICULATE LAYERS	: : : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed October 29, 2009.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the IPAU application(s);

(3) All of the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU application(s); and

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all of the Office actions from each of the IPAU application(s);

(6) Applicant must submit:
   a. An IDS listing the documents cited by the IPAU examiner in the IPAU Office action(s) (unless already submitted in this application)
   b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

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

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

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

15 AUG 2006

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In re Application of: POTHUAUD, Laurent, et al. U.S. Application No.: 10/583,134 PCT No.: PCT/FR2003/003768 International Filing Date: 17 December 2003 Priority Date: 17 December 2002 Attorney's Docket No.: 0540-1060 For: METHOD FOR DETERMINING A THREE-DIMENSIONAL STRUCTURE FROM A TWO-DIMENSIONAL IMAGE, IN PARTICULAR A BONE STRUCTURE	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 16 June 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 pursuant to 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 small entity petition 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.

Richard M. Ross
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Office of PCT Legal Administration
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THE FARRELL LAW FIRM, P.C.
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UNIONDALE NY 11553

In re Application of:	:	
LEE, Yong-Su, et al.	:	DECISION
U.S. Application No.: 10/583,164	:	
PCT No.: PCT/KR2004/003343	:	
International Filing Date: 17 December 2004	:	
Priority Date: 17 December 2003	:	
Atty Docket No.: 1403-7 PCT US	:	
For: Automatic Gain Control Apparatus	:	
And Method In Orthogonal Frequency	:	
Division Multiplexing	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 22 August 2007, treated herein in part as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date to 16 June 2006. No petition fee is required.

BACKGROUND

On 17 December 2004, applicants filed international application PCT/KR2004/003343. The international application claimed a priority date of 17 December 2003 and it designated the United States. On 30 June 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was 17 June 2006, i.e., thirty months from the priority date.

On 16 June 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 22 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 in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 25 May 2007, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration and payment of the required surcharge.

On 18 July 2007, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 25 May

2007. Also on 18 July 2007, a filing receipt was issued that identified the "Filing Date or 371(c) Date" as 25 May 2007.

On 22 August 2007, applicants filed the "Request For Corrected Filing Receipt" considered herein. The submission requests correction of the "Filing Date or 371(c) Date" listed on the filing receipt from 25 May 2007 to 16 June 2006.

DISCUSSION

The present petition requests that the "Filing Date or 371(c) Date" listed on the filing receipt be corrected from 25 May 2007 to 16 June 2006. The "Filing Date or 371(c) Date" listed on the filing receipt for a national stage application filed under 35 U.S.C. 371 is the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). See MPEP 1893.03(b).

In the present application, the final requirement of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), that is, the executed declaration required under 35 U.S.C. 371(c)(4), was not submitted until 25 May 2007. Accordingly, the listing of 25 May 2007 as the "Filing Date or 371(c)" on the filing receipt mailed herein was proper. Applicants' request that this date be corrected to 16 June 2006, a date prior to the completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), is therefore appropriately dismissed.

CONCLUSION

The petition to correct the 35 U.S.C. 371(c) date from 25 May 2007 to 16 June 2006 is **DISMISSED** without prejudice.

The Notification Of Acceptance and filing receipt mailed 18 July 2007 both properly identify the 35 U.S.C. 371(c) date herein as 25 May 2007, the date on which applicant filed the executed declaration required by 35 U.S.C. 371(c)(4).

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.

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27 OCT 2008

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
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In re Application of	:	
TSAI et al.	:	
Application No.: 10/583,179	:	DECISION
PCT No.: PCT/SG2004/000417	:	
Int. Filing Date: 17 December 2004	:	
Priority Date: 19 December 2003	:	
Attorney Docket No.: 490352-3004/US	:	
For: PROTEIN SEPARATION DEVICE	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 25 August 2008 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 17 December 2004, applicants filed international application PCT/SG2004/000417, which designated the United States and claimed a priority date of 19 December 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 30 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2006.

On 16 June 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 25 February 2008, 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 25 August 2008, applicants filed a petition under 37 CFR 1.47(a).

DISCUSSION

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

inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been met.

Item (2) has not been met. It is not clear whether it is being alleged that Hon-Chiu Eastwood Leung refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." It is not clear that the package sent to Mr. Leung's last known address on 15 August 2007 (paragraph 2.b. of petition) was received by him. No form of return receipt or tracking appears to have been used.

If it is being alleged that Mr. Leung refuses to sign, it is required that he 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 appears that Mr. Leung was only presented with a Declaration and Assignment (paragraph 2.b. of petition). Additionally, MPEP § 409.03(d) states in part:

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

No statement of facts by a person having firsthand knowledge has been presented.

If it is being alleged that Mr. Leung cannot be reached or found, MPEP § 409.03(d), item I, states in part:

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

Here, no statement of facts has been provided by a person having firsthand knowledge nor has any documentary evidence been provided.

CONCLUSION

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

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

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

/Daniel Stemmer/

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In re Application of:	DECISION ON PETITION UNDER 37 CFR 1.47(a)
LAUFF, Markus, et al.	
U.S. Application No.: 10/583,184	
PCT No.: PCT/EP2004/053478	
International Filing Date: 15 December 2004	
Priority Date: 18 December 2003	
Atty's Docket No.: 2058.101US1	
For: METHOD AND COMPUTER SYSTEM FOR DOCUMENT AUTHORING	

This decision is issued in response to applicants' "Rule 1.47(a) Petition To File Application By Other Than All Inventors" filed 05 November 2007. Applicants have paid the required petition fee.

BACKGROUND

On 15 December 2004, applicants filed international application PCT/EP2004/053478. The international application claimed a priority date of 18 December 2003, and it designated the United States. On 30 June 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., 18 June 2006.

On 16 June 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 declaration executed by four of the eight inventors of record.

On 04 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that a properly executed declaration in compliance with 37 CFR 1.497 was required.

On 05 November 2007, applicants filed a response to the Notification Of Missing Requirements (with required extension fee). The response included declarations executed by two of the previously non-signing inventors, as well as the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining two inventors, Florent NICOULAND and Samuel RETHORE, whom applicants assert have refused to execute the application.

DISCUSSION

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

With respect to item (1), applicants have submitted the required petition fee. Item (1) is therefore satisfied.

With respect to item (2), the petition does not include an express statement of the last known addresses for the two non-signing inventors. Item (2) is therefore not 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 declarations executed by six of the eight inventors of record, and these declarations each include unsigned signature blocks for the non-signing inventors, Florent NICOULAND and Samuel RETHORE. These declarations can be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventors. 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.

Finally, the MPEP states:

> 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, as evidence of the inventors' refusal to execute the declaration, applicants have provided a statement from counsel, with accompanying exhibits. However, as discussed below, these materials do not provide an acceptable showing that the non-signing inventors have refused to execute the declaration.

The petition asserts that a copy of the complete application, with a request for signature, was forwarded to the non-signing inventors by email on 05 August 2006. A copy of the email is attached to the petition. However, applicants have not provided a firsthand statement from Nancy Cournoyer, the person who forwarded this email, as required to confirm the correspondence and enclosures. Moreover, a subsequent email by Ms. Cournoyer, dated 15 August 2006 (a copy of which is included with the present petition) states that the 05 August 2006 email correspondence was returned as undeliverable. It is noted that, as indicated in the MPEP, the complete application materials, accompanied by a request for signature, should be sent to the last known address of the non-signing inventors. The emailing of such requests and documents, even if these emails are not returned as undeliverable, is generally not considered sufficient to satisfy this requirement. Accordingly, the 05 August 2006 email, which apparently was never delivered to the non-signing inventors, does not support a conclusion that the non-signing inventors have refused to execute the declaration.[1]

The petition also refers to the mailing of a request for signature to the non-signing inventors by a representative of the assignee, Christine Chaux-Luedtke. A copy of an email from Ms. Chaux-Luedtke is included with the petition. The email refers to attempts to forward "by registered mail the documents to be executed" to the non-signing inventors, and states that the registered mail was delivered to inventor RETHORE, but not to inventor NICOULAND (copies of un-translated mail receipts are included with the petition). However, applicants have not provided a firsthand statement from Ms. Chaux-Luedtke to confirm and clarify the referenced actions (for example, it is not clear if the mailings included a copy of the complete application, or just the declaration and assignment documents, nor is it clear whether the address used for Mr. NICOULAND was current). Without the required firsthand statement and further supporting documents (i.e., copies of cover letters and receipt confirmations, with English translations), the registered mailings referred to in the petition do not support a determination that the inventors have refused to execute the application.

Based on the above, item (4) of a grantable petition is not satisfied on the present record. Applicants must provide adequate supplemental materials that satisfy the requirements of the MPEP and include firsthand statements (with documentary support) confirming that a request for signature, accompanied by a copy of the complete application, has been sent to the non-signing inventors at their last known addresses, and that the inventors have refused to provide the requested signatures in response to such requests.

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[1] The petition also refers to a subsequent attempt to reach the inventors by email, this time by Dennis Wong on 17 April 2007. As with the 05 August 2006 emails, applicants have not provided a firsthand statement to confirm the details of this correspondence (for example, were these emails returned as undeliverable, like the 05 August 2006 emails?). In addition, it does not appear that a copy of the complete application was attached to these emails.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy items (2) and (4) of a grantable petition, as discussed above and in the MPEP. No additional petition fee is required.

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

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

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0 2 JUL 2008

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In re Application of: LAUFF, Markus, et al. U.S. Application No.: 10/583,184 PCT No.: PCT/EP2004/053478 International Filing Date: 15 December 2004 Priority Date: 18 December 2003 Atty's Docket No.: 2058.101US1 For: METHOD AND COMPUTER SYSTEM FOR DOCUMENT AUTHORING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition Under Rule 1.47(a)" filed 09 May 2008. No additional petition fee is required.

BACKGROUND

In a decision mailed on 03 March 2008, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an express statement of the last known addresses for the two non-signing inventors and an acceptable showing that the non-signing inventors had refused to execute the application or cannot be located after diligent effort.

On 09 May 2008, applicants filed the renewed petition considered herein.

DISCUSSION

The renewed petition includes an express statement of the last known addresses of the non-signing inventors, satisfying this requirement of a grantable petition.

The renewed petition also includes supplemental materials regarding the efforts made to obtain the signatures of the non-signing inventors. Specifically, applicants have provided a statement from Carol S. White, with supporting documents, providing firsthand evidence that signature requests, accompanied by copies of the complete application, were forwarded to the last known addresses of the non-signing inventors on 18 March 2008, and that these materials were returned as undeliverable.

The renewed petition also includes a statement from Christine Chaux-Luedtke, with supporting delivery receipts, providing firsthand evidence that signature requests, accompanied

by copies of the complete application, were forwarded to the last known addresses of the non-signing inventors on 07 June 2006 and 04 July 2006. This statement, and the supporting delivery receipts, indicates that the materials were successfully delivered to inventor Samuel RETHORE, but that the materials were not delivered to inventor Florent NICOULAND (notice of the packages were left at Mr. NICOULAND's address, but Mr. NICOULAND never went to the post office to claim the packages).

The statement of Ms. Chaux-Luedtke provides an acceptable showing that a request for signature, with a copy of the complete application, was delivered to non-signing inventor Samuel RETHORE. Mr. RETHORE's failure to provide the requested declaration in response to this request provides an adequate showing that this inventor has refused to execute the application. Thus, the final element of a grantable petition under 37 CFR 1.47(a) is satisfied with respect to inventor Samuel RETHORE.

However, with respect to inventor Florent NICOULAND, the record indicates that the signature requests forwarded to this inventor's address, both in 2006 and in 2008, have not been received by this inventor. Nor is there clear evidence that the inventor has refused to accept delivery of the application papers forwarded for signature. The present record therefore fails to support a conclusion that this inventor has refused to execute the application. Rather, it appears that applicants have been unable to locate this inventor and provide him with a signature request. Applicants have not provided evidence that a diligent effort has been undertaken to locate a current address for this inventor.[1] Thus, the present record also fails to support a conclusion that Florent NICOULAND cannot be located after diligent effort.

Because applicants have not provided an acceptable showing that inventor Florent NICOULAND has refused to execute the application or cannot be located after diligent effort, the final requirement of a grantable petition therefore remains unsatisfied with respect to this inventor.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy the final requirement of a grantable petition, that is, an adequate showing that non-signing inventor Florent NICOULAND has refused to execute the application or cannot be located after diligent effort. No additional petition fee is required.

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

---

[1] See MPEP section 409.03(d)(I) regarding the requirements for a showing of a diligent search to locate an inventor. Note that any such effort should include, but not be limited to, an internet search, with the results of such search being made of record.

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

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19 SEP 2008

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In re Application of: LAUFF, Markus, et al. U.S. Application No.: 10/583,184 PCT No.: PCT/EP2004/053478 International Filing Date: 15 December 2004 Priority Date: 18 December 2003 Atty's Docket No.: 2058.101US1 For: METHOD AND COMPUTER SYSTEM FOR DOCUMENT AUTHORING	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Second Renewed Petition Under Rule 1.47(a)" filed 05 September 2008. No additional petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decisions mailed on 03 March 2008 and 02 July 2008. These decisions dismissed without prejudice applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, the most recent decision indicated that applicants had failed to provide an acceptable showing that one of the two non-signing inventors, Florent NICOULAND, refuses to execute the application or cannot be located after diligent effort.

On 05 September 2008, applicants filed the second renewed petition considered herein.

DISCUSSION

The second renewed petition includes a declaration executed by one of the two previously non-signing inventors, Florent NICOULAND. The petition under 37 CFR 1.47(a) is therefore moot with respect to this inventor.

As indicated in the previous decision, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a) with respect to the other non-signing inventor, Samuel RETHORE. Granting of the petition under 37 CFR 1.47(a) with respect to inventor Samuel RETHORE is therefore appropriate.

CONCLUSION

The second renewed petition under 37 CFR 1.47(a) is **GRANTED** to the extent that the application is accepted without the signature of Samuel RETHORE.

The petition is **DISMISSED AS MOOT** with respect to previously non-signing inventor Florent NICOULAND.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor Samuel RETHORE at the last known address set forth in the petition materials, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 05 September 2008.

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19 SEP 2008

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Samuel RETHORE
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In re Application of: LAUFF, Markus, et al.
U.S. Application No.: 10/583,184
PCT No.: PCT/EP2004/053478
International Filing Date: 15 December 2004
Priority Date: 18 December 2003
Atty's Docket No.: 2058.101US1
For: METHOD AND COMPUTER SYSTEM FOR DOCUMENT AUTHORING

Dear Mr. RETHORE:

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

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

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02 OCT 2006

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In re Application of	:	
STREET, Gary Nathan	:	DECISION
Application No.: 10/583,190	:	
PCT No.: PCT/GB04/04223	:	ON PETITION UNDER
Int. Filing Date: 05 October 2004	:	
Priority Date: 13 October 2003	:	37 CFR 1.137(b)
Docket No.: None	:	
For: MULTIFUNCTIONAL FURNITURE	:	

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 15 June 2006.

BACKGROUND

On 05 October 2004, applicants filed an international application number PCT/GB04/04223, claiming a priority date of 13 October 2003. A copy of the international application was transmitted to the Office by the International Bureau on 06 May 2005. The thirty month period for entering the national stage in the United States expired at midnight on 13 April 2006.

On 15 June 2006, applicants filed 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) the required reply, (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). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1) and (4) have been satisfied. Applicant has made the required statement of unintentional delay. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (2) has not been satisfied. The basic national fee has not been paid. Applicant indicates that a national phase application and fee payment were enclosed with the submission, but only the petition, declaration and unintentional delay statement were located.

Item (3) has not been satisfied. The petition fee has not been paid.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 reconsideration request should include a cover letter entitled "Renewed Petition 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.

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0 9 MAY 2007

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United Kingdom

In re Application of	:	
STREET, Gary Nathan	:	DECISION
Application No.: 10/583,190	:	
PCT No.: PCT/GB04/04223	:	ON PETITION UNDER
Int. Filing Date: 05 October 2004	:	
Priority Date: 13 October 2003	:	37 CFR 1.137(b)
Docket No.: None	:	
For: MULTIFUNCTIONAL FURNITURE	:	

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 16 November 2006.

BACKGROUND

On 02 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicant's petition.

On 03 November 2006, the Office mailed Notification of Abandonment, indicating the application went abandoned for failure to pay the basic national fee and for failure to make the required statement of unintentional delay.

On 16 November 2006, applicant submitted a renewed petition, accompanied by the petition fee and basic national fee.

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) the required reply, (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). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

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

Items (2) and (3) have now been satisfied. The basic national fee and petition fee have been paid.

Additionally, the Notification of Abandonment incorrectly indicated that the earlier petition was dismissed for failure to make the necessary statement of unintentional delay. The statement was made.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) is **VACATED**.

This application is being referred to the national stage processing division of the Office of PCT Operations for further action consistent with this decision, including the 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.

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19 JUL 2006

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In re Application of :
GESTERLAND *et al* :
U.S. Application No.: 10/583,198 :
PCT No.: PCT/US2004/038092 : **DECISION**
Int. Filing Date: 15 November 2004 :
Priority Date: 14 November 2003 :
Attorney's Docket No.: 21101.0046U2 :
For: METHODS, ARTICLES, AND :
COMPOSITIONS FOR IDENTIFYING :
OLIGONUCLEOTIDES :

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 with the national stage papers on 15 June 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 signed oath or declaration was not included with any of the papers submitted.

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

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21 NOV 2007

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In re Application of ATKINSON (deceased) Application No.: 10/583,215 PCT No.: PCT/AU2004/001766 Int. Filing Date: 16 December 2004 Priority Date: 18 December 2003 Atty. Docket No.: 04465/026001 For: HYBRID CONSTRUCTION ELECTRIC MACHINE	:	DECISION

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" which filed in the U.S. Patent and Trademark Office (USPTO) on 02 October 2007, and the declaration of the inventor filed in the USPTO on 30 July 2007, which have been treated as a request for acceptance of the application under 37 CFR 1.42.

BACKGROUND

On 16 December 2004, applicant filed international application No. PCT/AU04/01766 which claimed a priority date of 18 December 2003, and which designated the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee expired 30 months from the priority date, i.e. 18 June 2006.

On 16 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee and an unexecuted declaration of the inventor.

On 02 April 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 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 30 July 2007, applicant filed, *inter alia*, a declaration executed by Daphne Atkinson and the requisite surcharge.

On 07 September 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration was not in compliance with 37 CFR 1.497 in that it identified and was executed someone other than the inventor named in the international application.

On 02 October 2007, applicant filed the present response which has been treated as a request that the application be accepted under 37 CFR 1.42 and 1.497(b)(2) as filed by Daphne Atkinson as the legal representative of inventor Donald Atkinson who is deceased.

DISCUSSION

A review of the application file reveals that the declaration by Daphne Atkinson as the legal representative of the deceased inventor, Donald Atkinson is not acceptable for the following reasons.

37 CFR 1.497(b)(2) states:

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

A review of the declaration filed 30 July 2007, reveals that it does not set forth the facts which the inventor would have been required to state. Specifically, the declaration provides the citizenship, residence and mailing address of the legal representative, but does not set forth such information for the actual inventor. Therefore, the application cannot be accepted under 37 CFR 1.42 at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.42 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 Request Under 37 CFR 1.42". No additional petition fee is required.

A proper response must include a declaration of the inventors in compliance with 37 CFR 1.42 and 1.497.

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

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COMMISSIONER FOR PATENTS
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0 6 JUN 2008

Osha Liang LLP
1221 McKinney Street
Suite 2800
Houston, TX 77010

In re Application of	:	
ATKINSON (deceased)	:	
Application No.: 10/583,215	:	
PCT No.: PCT/AU2004/001766	:	
Int. Filing Date: 16 December 2004	:	DECISION
Priority Date: 18 December 2003	:	
Atty. Docket No.: 04465/026001	:	
For: HYBRID CONSTRUCTION	:	
ELECTRIC MACHINE	:	

This is a decision on applicant's "RENEWED REQUEST UNDER 37 CFR 1.42" which was filed in the U.S. Patent and Trademark Office (USPTO) on 22 January 2008. The request is **GRANTED** as discussed below.

On 21 November 2007, this office mailed a decision dismissing applicant's initial request for acceptance of the application under 37 CFR 1.42 on the grounds that the declaration filed 30 July 2007, was not in compliance with 37 CFR 1.497(b)(2).

On 22 January 2008, applicant filed the present response which was accompanied by a new declaration executed by Daphne Atkinson as the legal representative of the deceased inventor, Donald Atkinson.

A review of the application file reveals that the present declaration by Daphne Atkinson, when viewed in combination with the declaration filed 30 July 2007, satisfies the requirements of 37 CFR 1.497(b)(2), and thus the requirements for entry into the national stage under 35 U.S.C. 371.

The application has an international filing date of 16 December 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **22 January 2008**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

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THE DOW CHEMICAL COMPANY
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APR 22 2008

OFFICE OF PETITIONS

In re Application of
Paul J. Caronia, et al.
Application No. 10/583,227
Filed: June 16, 2006
Attorney Docket No. 63847A US

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 3, 2007. On January 4, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on January 14, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) 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 $1,050 extension of time fee submitted with the petition on January 4, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the amendment received January 4, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KEVIN R. HANSBRO
THE DOW CHEMICAL CO
2030 DOW CENTER
MIDLAND, MI 48674

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COOPER & DUNHAM, LLP
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MAR 3 1 2008

In re Application of	:	
Junji NISHIDA	:	
Application No. 10/583,264	:	DECISION ON PETITION
Filed: June 14, 2006	:	
Attorney Docket No. **2271/76466**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 06, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely to submit corrected formal drawings on or before January 18, 2008 as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, 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 corrected formal drawings, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings 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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APR 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Junji Nishida	:	
Application No. 10/583,264	:	DECISION GRANTING PETITION
Filed: June 14, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2271/76466	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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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07 AUG 2007

RANKIN, HILL, PORTER & CLARK, LLP
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CLEVELAND OH 44115-1405

In re Application of Yamauchi et al. Application No. 10/583,286 PCT No.: PCT/JP04/18923 Int. Filing Date: 17 December 2004 Priority Date: 17 December 2003 Att. Docket No.: IWI-16646 For: Method For Analyzing Proteins	COMMUNICATION

This is in response to the petition under 37 CFR 1.182 filed on 02 May 2007.

BACKGROUND

This international application was filed on 17 December 2004, claimed an earliest priority date of 17 December 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 30 June 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 June 2006 (since 17 June 2006 was a Saturday). Applicants filed, *inter alia*, the basic national fee on 16 June 2006.

On 16 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 "The family name of the 2nd inventor doesn't correspond with the name on the published application."

DISCUSSION

Inspection of the declaration filed on 16 June 2006reveals that it nominates SHINKAWA Takashi" in place of "ARAKAWA, Takashi" 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 indicates that the discrepancy in the name of the second-nominated inventor arose from a translation error. In support of this assertion, the petition is accompanied by a copy of a page from an allegedly "corresponding Canadian Patent Application" showing the surname Shinkawa. Petitioner has also provided a letter signed by Yuji IWAHASHI stating that "The correct name of the second inventor is 'Takashi SHINKAWA'," and indicating that "In Japan, about the name of

a parson, the reading of Chinese Characters are various and it is not indicated in the certificate by a notary public."

The evidence of record is not sufficient to establish that the correct name of the second-nominated inventor is in fact Takashi SHINKAWA as opposed to Takashi ARAKAWA. Rather, petitioner should furnish a statement executed by the inventor in question attesting that his correct name is Shinkawa, and that he is the same person named as Arakawa in the published international application.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this Decision to file a response, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, 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
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2 6 MAR 2008

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RANKIN, HILL, PORTER & CLARK, LLP
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CLEVELAND OH 44115-1405

In re Application of	:	
Yamauchi et al.	:	
Application No. 10/583,286	:	
PCT No.: PCT/JP04/18923	:	
Int. Filing Date: 17 December 2004	:	DECISION
Priority Date: 17 December 2003	:	
Att. Docket No.: IWI-16646	:	
For: Method For Analyzing Proteins	:	
	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 28 December 2007 and the "Request To Withdraw The Holding Of Abandonment" filed on 08 January 2008, which is being treated under 37 CFR 1.181.

DISCUSSION

Petition Under 37 CFR 1.181

Petitioner requests withdrawal of the holding of abandonment because a timely reply allegedly was filed. Review of the record reveals that, in fact, a response to the Communication mailed 07 August 2007 was filed on 28 December 2007, along with a three-month extension of time under 37 CFR 1.136(a), rendering the response timely. As such, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 28 December 2007 was inappropriate, and it is hereby **VACATED**. The petition under 37 CFR 1.181 is **GRANTED**.

Petition Under 37 CFR 1.182

In the Communication (Decision) mailed on 07 August 2007, the petition under 37 CFR 1.182 filed on 02 May 2007 was dismissed, without prejudice, because

> The evidence of record is not sufficient to establish that the correct name of the second-nominated inventor is in fact Takashi SHINKAWA as opposed to Takashi ARAKAWA. Rather, petitioner should furnish a statement executed by the inventor in question attesting that his correct name is Shinkawa, and that he is the same person named as Arakawa in the published international application.

In response, petitioner presents additional evidence in support of the petition under 37 CFR 1.182, including a "Declaration..." signed by Takashi Shinkawa and stating that his name as a joint inventor was mistranslated as ARAKAWA, without deceptive intent. He confirms that the correct spelling of his name is instead – SHINKAWA –. In view of the totality of the evidence now of record, it would be appropriate to accept the spelling of this inventor's name on the declaration as SHINKAWA.

CONCLUSION

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

The declaration filed on 16 June 2006 is accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **16 June 2006**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
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OFFICE OF PETITIONS

In re Application of	:	
Bharat I. Chaudhary, et al.	:	
Application No. 10/583,294	:	ON PETITION
Filed: June 16, 2006	:	
Attorney Docket No. 64075 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 2, 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 3, 2007. The Notice of Abandonment was mailed January 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) 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 $1,050 extension of time fee submitted with the petition on January 7, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed amendment.

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **The Dow Chemical Co.**
2030 Dow Center
Midland, MI 48674

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In re Application of: PRESTIDGE, Tim et al.	:	
U.S. Application No.: 10/583,353	:	DECISION
PCT Application No.: PCT/GB2005/000023	:	
Int. Filing Date: 06 January 2005	:	
Priority Date: 06 January 2004	:	UNDER
Atty Docket No.: 128452	:	
For: MACHINE TOOL WORKPIECE INSPECTION SYSTEM	:	37 CFR 1.181

This decision is issued in response to applicants' "Request to Change 35 U.S.C. 371 Date" filed on 13 February 2008, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 June 2006, applicants filed National Phase application papers requesting entry into the national phase in the United States of America under 35 U.S.C. 371. The National Phase application filing included, *inter alia*, the requisite basic national fee; a Transmittal Letter (PTO-1390); an executed declaration; and an application data sheet.

On 21 November 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" (Form PCT/DO/EO/903) which set forth the date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 16 June 2006 and a 35 U.S.C. 371 completion date of 16 June 2006.

On 15 January 2008, the DO/EO/US mailed a "Withdrawal of Previously Sent Notice" indicating that the Notice mailed on 21 November 2007 was sent in error and a second "Notice of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 19 June 2006 and a 35 U.S.C. 371 completion date of 19 June 2006.

On 13 February 2008, applicants filed the instant "Request to Change 35 U.S.C. 371 Date".

DISCUSSION

A review of the papers reveals that the applicants have provided sufficient evidence to establish that the National Phase application papers were filed on 16 June 2006. The proof is the received date of 16 JUN 2006 stamped by the USPTO on the return receipt which itemized the National Phase application papers. Further, the USPTO finance records also indicate that an amount of $900 corresponding to the National Phase fees were received on 16 June 2006. Therefore, the correction of the 35 U.S.C. 371 date to 16 June 2006 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 16 June 2006. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's request under 37 CFR 1.181 to change the 35 U.S.C. 371 date is **GRANTED**.

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed on 15 January 2008 is hereby **VACATED**.

The application has an international filing date of 06 January 2005 under 35 U.S.C. 363 and a date of 16 June 2006 under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTICE OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 16 June 2006 under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a 371(c)(1), (c)(2), and (c)(4) date of 16 June 2006.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
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14 SEP 2007

Rothwell, Figg, Ernst & Manbeck
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Washington, D.C. 20005

In re Application of ZAWIERUCHA et al. Application No.: 10/583,364 PCT No.: PCT/EP04/14424 Int. Filing Date: 17 December 2004 Priority Date: 19 December 2003 Attorney Docket No.: 3165-147 For: METHOD FOR CONTROLLING CONIFEROUS PLANTS	: : : : : : : :	DECISION ON PETITION

This decision is issued in response to applicants' "Response to Notification of Missing Requirements" filed 24 April 2007 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 17 December 2004, applicants filed international application PCT/EP04/14424 which claimed a priority date of 19 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 19 June 2006.

On 19 June 2006, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 26 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 24 April 2007, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney and a post card receipt dated 19 June 2006.

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 19 June 2006. A review of the present application reveals that the declaration and power of attorney is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the first-named inventor, corresponding international application number, and attorney docket number. The receipt itemizes, among other things, a declaration and power of attorney. The receipt is stamped "Rec'd PCT/PTO 19 June 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 19 June 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

In view of the declaration filed 19 June 2006, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 26 February 2007 is hereby **VACATED**.

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

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2 4 OCT 2007

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NEW YORK, NY 10004

In re Application of SIMON et al	:	
U.S. Application No.: 10/583,479	:	
PCT Application No.: PCT/EP2004/013280	:	DECISION
Int. Filing Date: 23 November 2004	:	
Priority Date Claimed: 10 December 2003	:	
Attorney Docket No.: 12604/25	:	
For: SYSTEM	:	

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371" filed 17 May 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 November 2004, applicant filed international application PCT/EP2004/013280, which claimed priority of an earlier Germany application filed 10 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 19 June 2006.

On 19 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a copy of an execute declaration submitted in the international application under PCT Rule 4.17(iv).

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), which indicated that the declaration filed 19 June 2006 does not identify the application to which it is directed.

DISCUSSION

A review of the application file reveals that the declaration filed 19 June 2006 is present. A declaration under PCT Rule 4.17(iv) need not identify the international application number if

the declaration is filed with the international application papers on the international filing date. A review of the declaration indicates that joint inventor Josef Schmidt appears to have executed the declaration on 27 November 2004, which is later than the international filing date. Assuming this is correct, a complete declaration could not have been filed on the international filing date. Therefore, for the purposes of the national stage in the United States, the declaration under PCT Rule 4.17(iv) does not properly identify the application to which it is directed, and the mailing of the Notification of Missing Requirements on 26 February 2007 was proper.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

Because the filing of the present petition is deemed to be a bona fide attempt to respond to the Notification of Missing Requirements, applicant is hereby given a time limit of ONE (1) MONTH to file a proper reply. Extensions of time are NOT available. Failure to time file a proper reply will result in ABANDONMENT of the application. A proper reply would include one of the following: (1) a properly executed oath/declaration, (2) adequate proof that the declaration under PCT Rule 4.17(iv) was filed on the international filing date along with an explanation as to the date of execution by joint inventor Schmidt, or (3) an appropriate petition under 37 CFR 1.47 in the event one or more of the joint inventors is not available to sign.

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

0 9 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of:	:	
OHSAWA, Kenji, et al.	:	DECISION
U.S. Application No.: 10/583,504	:	
PCT No.: PCT/JP2006/301925	:	
International Filing Date: 31 January 2006	:	
Priority Date: 01 September 2005	:	
Atty Docket No.: 1625-210	:	
For: HEAT PIPE AND METHOD FOR	:	
MANUFACTURING SAME	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 18 April 2007, treated herein in part as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date to 20 March 2006. No petition fee is required.

BACKGROUND

On 31 January 2006, applicants filed international application PCT/JP2006/301925. The international application claimed a priority date of 01 September 2005 and it designated the United States. On 15 March 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee is 01 March 2008, i.e., thirty months from the priority date.

On 20 March 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an executed declaration, and a copy of the description, abstract, claims, and drawings of the international application. The submission did not include a copy of the Request (Form PCT/RO/101). These materials were initially assigned U.S. application number 10/572,517.

On 27 April 2006, applicants filed a second copy of the papers originally filed on 20 March 2006. These materials were assigned the present U.S. application number, 10/583,504.

On 08 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notice Of Cancellation Of Assigned Serial Number" (Form PCT/DO/EO/908) indicating that serial number 10/572,517 had been cancelled and that all further communications should be directed to application number 10/583,504.

On 15 November 2006, the DO/EO/US mailed a "Notice Of Insufficient Basic National Fee Required And/Or Missing Copy Of International Application Under 35 U.S.C. 371 And 37

CFR 1.495" (Form PCT/DO/EO/912) indicating that a "Copy of International Application, which includes a copy of the Request Form, submitted to the International Bureau is missing.".

On 26 January 2007, applicants filed a "Response To Notice Of Insufficient Basic National Fee Required And/Or Missing Copy Of International Application Under 35 U.S.C. 371 And 37 CFR 1.495" accompanied by an additional copy of the description, abstract, claims, and drawings, as well as a copy of the Request form.

On 27 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C. 371 Requirements" as 27 April 2006. Also on 03 October 2005, a filing receipt was issued that identified the "Filing Date or 371(c) Date" as 27 April 2006.

On 18 April 2007, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition requests correction of the "Filing Date or 371(c) Date" listed on the filing receipt from 27 April 2006 to 20 March 2006.[1]

DISCUSSION

The present petition requests that the "Filing Date or 371(c) Date" listed on the filing receipt be corrected from 27 April 2006 to 20 March 2006.

The "Filing Date or 371(c) Date" listed on the filing receipt for a national stage application filed under 35 U.S.C. 371 is the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). See MPEP 1893.03(b).

A review of the application file reveals that the materials filed by applicant on 20 March 2006 included the basic national fee and an executed declaration in compliance with 37 CFR 1.497. Accordingly, as of 20 March 2006, applicants had satisfied the requirements of 35 U.S.C. 371(c)(1) and (c)(4).

With respect to the requirement of 35 U.S.C. 371(c)(2), applicants filed the present national stage prior to publication of the international application and therefore prior to the communication of a copy of the international application to the USPTO from the IB. Accordingly, in order to satisfy the requirement of 35 U.S.C. 371(c)(2), applicants were obligated to provide to the USPTO a copy of the complete international application as filed. According to 35 CFR 1.431, an international application shall contain, as specified by the Treaty and the Regulations, a Request, a description, one or more claims, an abstract, and one or more drawings (where required); see also PCT Article 3.

Here, applicants' 20 March 2006 and 27 April 2006 submissions included copies of the description, claims, abstract, and drawings contained in the international application; however, neither of these submissions included a copy of the PCT Request (PCT/RO/101) filed as part of

[1] Applicants also request correction of a spelling error in the assignee's name; this typographical error will be corrected as requested.

the international application. Applicants did not file a copy of the Request form until 26 January 2007, when a copy of the Request was filed as part of applicant's response to the Form PCT/DO/EO/912. Accordingly, a complete copy of the international application (including the Request form) was first filed herein on 26 January 2007. The date of completion of the requirements of 35 U.S.C. 371(c)(2) for the present national stage application is therefore 26 January 2007.

Based on the above, the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present national stage application is 26 January 2007.

The Notification Of Acceptance and filing receipt mailed 27 February 2007, both of which identified the 35 U.S.C. 371(c) date as 27 April 2006, are therefore appropriately vacated, to be replaced by corrected versions which properly identify the 35 U.S.C. 371(c) date as 26 January 2007.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date from 27 April 2006 to 20 March 2006 is **DISMISSED** without prejudice.

A review of the application file reveals that the correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 26 January 2007.

The Notification Of Acceptance and filing receipt mailed 27 February 2007, both of which identified the 35 U.S.C. 371(c) date as 27 April 2006, are 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. Such a petition should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include an acceptable showing confirming that applicants submitted to the USPTO a copy of the complete international application as filed, including the Request form, prior to 26 January 2007.

No additional petition fee is required.

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

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of

a corrected Notification Of Acceptance and filing receipt, both of which properly identified the 35 U.S.C. 371(c) date as 26 January 2007.

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

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P.O. Box 1450
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12/24/09

Patent No. :7628758
Ser. No. :10/583515
Inventor(s) :Michael F. O'Rourke
Issued : 12/8/09
Title : METHOD AND APPARATUS FOR DETERMINATION OF CENTRAL AORTIC PRESSURE
Docket No. :

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 mater, 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: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

EDWARD R. WILLIAMS, JR.
ANDRUS SCEALES STARKE & SAWALL LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

HR

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MAR 23 2010

OFFICE OF PETITIONS

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

In re Patent No. 7,628,758	:	
Issue Date: December 08, 2009	:	
Application No. 10/583,515	:	DECISION ON PETITION
Filed: March 21, 2007	:	
Attorney Docket No. 000877/0002	:	

This is a decision on the petition, filed, March 11, 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 "AtCor Medical Pty. Ltd." 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 "AtCor Medical Pty. Ltd." 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

COPY MAILED

JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
James Deciry et al	:	
Application No. 10/583,547	:	DECISION GRANTING PETITION
Filed: June 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0598-1009	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Colin Brian Nicholson	: DECISION ON REQUEST FOR
Patent Number	: 7597048	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,548	: 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 **252** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.
ATTORNEYS AT LAW

Docket No.: 292745US0PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

ATTENTION: MAGDALEN GREENLIEF
OFFICE OF THE DEPUTY COMMISSIONER
PATENT EXAMINATION POLICY

RE: Application Serial No.: 10/583,556
Applicants: Naoki HOSOYA, et al.
Filing Date: June 19, 2006
For: BOTTLED BEVERAGE
Group Art Unit: 1761
Examiner:

SIR:

Attached hereto for filing are the following papers:
Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the (1) JPO or (2) UKIPO, and the USPTO w/attached Appendices A Through J

Our credit card payment form in the amount of **$130.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Jacob A. Doughty
Registration No. 46,671

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)

APPENDIX A

Explanation of Circumstances Concerning Accelerated Examination

O/SB/07)
Approved for use through 12/31/2008. OMB 0651-0058
U.S. Patent and Trademark Office; U.S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE (1) JPO OR (2) UKIPO, AND THE USPTO

Application No.:	10/583,556	First Named Inventor:	Masaki IWASAKI
Filing Date:	June 19, 2006	Attorney Docket No.:	292745US0PCT
Title of the Invention:	BOTTLED BEVERAGE		

THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO:
THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s) or UKIPO application(s).

The ☒ JPO ☐ UKIPO application number(s) is/are: JP 2003-420910

The filing date of the ☒ JPO ☐ UKIPO application(s) is/are: December 18, 2003

I. List of Required Documents:

a. A copy of all JPO office actions (excluding "Decision to Grant a Patent"*) in the above-identified JPO application(s), or a copy of all UKIPO office actions in the above-identified UKIPO application(s).

☒ Is attached. (See Appendices A and B attached hereto.)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

*It is not necessary to submit a copy of the "Decision to Grant a Patent" and an English translation thereof.

b. A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s), or a copy of all claims which were determined to be patentable by the UKIPO in the above-identified UKIPO application(s).

☒ Is attached. (See Appendix C attached hereto.)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

c. English translations (where applicable) of the documents in a. and b. above along with a statement that the English translations are accurate are attached. (See Appendices D to G attached hereto.)

Information disclosure statement listing the documents cited in the JPO office actions or UKIPO office actions is attached.

Copies of all documents are attached except for U.S. patents or U.S. patent application publications. (See Appendix H attached hereto. All references not attached have already been made of record in this application.

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: Magdalen Greenlief.

PTO/SB/20 (09-07)
Approved for use through 12/31/2008. OMB 0651-0058
U.S. Patent and Trademark Office; U.S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE (1) JPO OR (2) UKIPO, AND THE USPTO

(continued)

Application No.:	10/583,556	First Named Inventor:	Masaki IWASAKI

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in JP/UKIPO Application	Explanation regarding the correspondence
		(See Appendices I and J attached hereto.)

III. All the claims in the US application sufficiently correspond to the patentable/allowable claims in the JPO or UKIPO application.

IV. Payment of Fees:

The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) to ☐ Deposit Account No. _____.

☒ Credit Card. Credit Card Payment Form (PTO-2038) is attached.

Signature		Date	9/21/07
Name (Print/Typed)	Jacob A. Doughty	Registration Number	46,671

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.

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

United States Patent & Trademark Office

Credit Card Payment Form

Credit Card Information	
Credit Card Type: ■ American Express	
Credit Card Account #: 3787-380062-21005	
Credit Card Expiration Date: December 31, 2008	
Name as it Appears on Credit Card: Carter, Dara L.	
Payment Amount: $(US Dollars): 130.00	
Signature:	Date: September 20, 2007
Credit Card Billing Address	
Street Address 1: Oblon, Spivak, McClelland, Maier & Neustadt, P.C.	
Street Address 2: 1940 Duke Street	
City: Alexandria	
State: Virginia	Zip/Postal Code: 22314
Country: U.S.A.	
Daytime Phone #: (703) 413-3000 Accounting Dept.	Fax #: (703) 413-2220
Request and Payment Information	
Description of Request and Payment Information: PETITION FEE (PPH)	
Application No.: 10/583,556	
Patent/Registration No.:	
Docket No.: 292745US	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent & Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

Form #: 100440

APPENDIX J

Claims Correspondence Table

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,556
Attorney Docket No. 292745US0PCT

CLAIMS CORRESPONDENCE TABLE

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
Claim 1	Claim 1	Claim 1 of the US application is substantially identical to claim 1 of the JP application.
Claim 2	Claim 3	Claim 2 of the US application is substantially identical to claim 3 of the JP application. US claim 1 differs from JP claim 3 only in that US claim 1 depends solely from US claim 1, while JP claim 3 depends from JP claim 1 or JP claim 2.
Claim 3	--	Claim 3 of the US application has been cancelled.
Claim 4	--	Claim 4 of the US application has been cancelled.
Claim 5	--	Claim 5 of the US application has been cancelled.
Claim 6	Claim 2	Claim 6 of the US application is substantially identical to claim 5 of the JP application.
Claim 7	Claim 4	Claim 7 of the US application is substantially identical to claim 4 of the JP application. US claim 7 differs from JP claim 4 only in that US claim 7 depends solely from US claim 1, while JP claim 4 depends from any of JP claims 1-3.
Claim 8	Claim 5	Claim 8 of the US application is substantially identical to claim 5 of the JP application. US claim 8 differs from JP claim 5 only in that US claim 8 depends from US claim 1, while JP claim 5 depends from any of JP claims 1-4.
Claim 9	Claim 6	Claim 9 of the US application is substantially identical to claim 6 of the JP application. US claim 9 differs from JP claim 6 only in that US claim 9 depends solely from US claim 1, while JP claim 6 depends from any of JP claims 1-5.
Claim 10	Claim 7	Claim 10 of the US application is substantially identical to claim 7 of the JP application. US claim 10 differs from JP claim 7 only in that US claim 10 depends solely from US claim 1, while JP claim 7 depends from any of JP claims 1-6.

CLAIMS CORRESPONDENCE TABLE (cont'd)

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
Claim 11	Claim 8	Claim 11 of the US application is substantially identical to claim 8 of the JP application. US claim 11 differs from JP claim 8 only in that US claim 11 depends from US claim 10, while JP claim 8 depends from JP claims 7.

APPENDIX C

Copy of Claims Determined to be Patentable by JPO

APPENDIX F

English-Language Translation of Copy of Claims Determined to be Patentable by JPO

APPENDIX G

Statement Regarding Accuracy of English-Language Translations

DOCKET NO: 292745US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
NAOKI HOSOYA, ET AL.	: EXAMINER:
SERIAL NO: 10/583,556	:
FILED: JUNE 19, 2006	: GROUP ART UNIT: 1761
FOR: BOTTLED BEVERAGE	:

STATEMENT REGARDING ACCURACY OF ENGLISH-LANGUAGE TRANSLATIONS

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants state that the English-language translations provided as Appendices D-F to the Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program and Petition to Make Special under the PPH Pilot Program, filed herewith, are accurate.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Jacob A. Doughty
Registration No. 46,671
Attorney of Record

Customer Number
22850

Tel: (703) 413-3000
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(OSMMN 06/04)

CLAIMS

[1] A packaged beverage with a green tea extract mixed therein, comprising the following ingredients (A), (B) and (C):

(A) from 0.01 to 1.0 wt% of non-polymer catechins,

(B) oxalic acid or a salt thereof, and

(C) caffeine,

wherein a content weight ratio [(B)/(A)] of said oxalic acid or a salt thereof (B) to said non-polymer catechins (A) is from 0.0005 to 0.05, and a content weight ratio [(A)/(C)] of said non-polymer catechins (A) to said caffeine (C) is 10 to 10000.

[2] The packaged beverage according to claim 1, wherein said beverage further comprises 0.001 to 0.5 wt.% of sodium ion and 0.001 to 0.2 of potassium ion.

[3] The packaged beverage according to claim 1 or 2, wherein said beverage further comprises 0.0001 to 20 wt.% of sweetener.

[4] The packaged beverage according to any one of claims 1 to 3, which has a pH of from 2 to 5.

[5] The packaged beverage according to any one of claims 1 to 4, wherein said green tea extract as a raw material is one obtained by removing caffeine from a concentrate of green tea extract, said concentrate comprising from

20 to 90 wt% of non-polymer catechins based on a solid content thereof, such that said content weight ratio [(A)/(C)] of said non-polymer catechins (A) to said caffeine (C) is from 10 to 10000.

[6] The packaged beverage according to any one of claims 1-5, which is filled in a clear container.

[7] The packaged beverage according to any one of claims 1-6, wherein said beverage is a soft drink.

[8] The packaged beverage according to claim 7, wherein said beverage is a carbonated drink, a fruit extract-containing drink, a vegetable extract-containing juice, near water or a sport drink.

(19)日本国特許庁(JP)

(12)特 許 公 報(B1)

(11)特許番号
特許第3615213号
(P3615213)

(24)登録日 平成16年11月12日(2004.11.12)

(45)発行日 平成17年2月2日(2005.2.2)

(51)Int.Cl.⁷
A23F 3/16
A23L 2/38
A23L 2/52

F I
A23F 3/16
A23L 2/38 C
A23L 2/00 F

請求項の数 8 (全 14 頁)

(21)出願番号 特願2003-420910(P2003-420910)
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(31)優先権主張番号 特願2003-204031(P2003-204031)
(32)優先日 平成15年7月30日(2003.7.30)
(33)優先権主張国 日本国(JP)

早期審査対象出願

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最終頁に続く

(54)【発明の名称】容器詰飲料

(57)【特許請求の範囲】

【請求項１】
緑茶抽出物を配合した容器詰飲料であって、次の成分（Ａ）、（Ｂ）及び（Ｃ）、
（Ａ）非重合体カテキン類　０．０１～１．０重量％、
（Ｂ）シュウ酸又はその塩
（Ｃ）カフェイン
を含有し、（Ｂ）シュウ酸又はその塩と（Ａ）非重合体カテキン類との含有重量比［（Ｂ）／（Ａ）］が０．００００５～０．０５であり、且つ（Ａ）非重合体カテキン類と（Ｃ）カフェインとの含有重量比［（Ａ）／（Ｃ）］が１０～１００００である容器詰飲料。

【請求項２】
更にナトリウムイオン０．００１～０．５重量％、及びカリウムイオン０．００１～０．２重量％を含有する請求項１記載の容器詰飲料。

【請求項３】
更に甘味料を０．０００１～２０重量％含有する請求項１又は２記載の容器詰飲料。

【請求項４】
pHが２～５である請求項１～３のいずれか１項記載の容器詰飲料。

【請求項５】
原料緑茶抽出物が、固形分中に非重合体カテキン類を２０～９０重量％含有する緑茶抽出物の濃縮物から、（Ａ）非重合体カテキン類と（Ｃ）カフェインとの含有重量比［（Ａ

）／（C）］が１０～１００００の範囲になるようにカフェインを除去したものである請求項１～４のいずれか１項記載の容器詰飲料。

【請求項６】

透明容器に充填されたものである請求項１～５のいずれか１項記載の容器詰飲料。

【請求項７】

ソフトドリンクである請求項１～６のいずれか１項記載の容器詰飲料。

【請求項８】

炭酸飲料、果汁エキス入り飲料、野菜エキス入りジュース、ニアウォーター又はスポーツドリンクである請求項７記載の容器詰飲料。

【発明の詳細な説明】

【技術分野】

【０００１】

本発明は緑茶抽出物を配合したカテキンを高濃度に含有し、苦味、渋味が低減され長期間の飲用に適し、また苦味、渋味の安定性及び喉越しに優れ、透明容器での高温保存時に色調安定性に優れた容器詰飲料に関する。

【背景技術】

【０００２】

カテキン類の効果としてはコレステロール上昇抑制作用やアミラーゼ活性阻害作用などが報告されている（例えば、特許文献１、２参照）。カテキン類のこのような生理効果を発現させるためには、成人一日あたり４～５杯のお茶を飲むことが必要であることから、より簡便に大量のカテキン類を摂取するために、飲料にカテキン類を高濃度配合する技術が望まれている。この方法の一つとして、緑茶抽出物の濃縮物（例えば、特許文献３～５参照）などを利用して、カテキン類を飲料に溶解状態で添加する方法がある。

【０００３】

しかしながら、市販の緑茶抽出物の濃縮物をそのまま用いると、緑茶抽出物の濃縮物に含まれる成分の影響によって渋味や苦味が強く、また喉越しが悪くカテキンによる生理効果を発現させる上で必要となる長期間の飲用には向かなかった。一方、長期間の飲用に不向きな要素の一つである渋味を低減する方法として、デキストリンを配合する方法があるが、カテキン類を高濃度に配合する場合、これだけでは不十分であるという問題があった。また甘味料が入る飲料系であっても、市販の緑茶抽出物の濃縮物をそのまま用いるとその渋味や苦味は強く、また緑茶由来の不要な風味があり、保存中に苦味、渋味が変化する現象があり、苦味、渋味の安定性に優れず長期間の飲用には向かなかった（例えば特許文献６）。また、飲料の外観が高温保存時に変化しやすく、透明容器に充填して長期間色調が安定でなかった。

【０００４】

また、低カフェイン茶ポリフェノールの製造法としては合成吸着剤等を用いて、高度にカフェインを除去（例えばポリフェノール／カフェイン比２００００）し、純度の高いポリフェノールを得る方法があるが、カフェイン除去とともに茶抽出物中に本来存在しているアミノ酸やペクチン等の呈味成分や渋味抑制物質までも除去してしまい、苦味、渋味が特に高温保存時に変化する現象があり、苦味、渋味の安定性に優れず長期間飲用する目的には向かなかった（例えば特許文献６）。また、飲料の外観が高温保存時に変化しやすく、透明容器に充填して長期間色調が安定でなかった。

【特許文献１】特開昭６０－１５６６１４号公報

【特許文献２】特開平３－１３３９２８号公報

【特許文献３】特開２００２－１４２６７７号公報

【特許文献４】特開平８－２９８９３０号公報

【特許文献５】特開平８－１０９１７８号公報

【特許文献６】特表平１０－５０１４０７号公報

【発明の開示】

【発明が解決しようとする課題】

フロントページの続き

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審査官 村上 騎見高

(56)参考文献 特開平０６－３１１８４７（ＪＰ，Ａ）
特開２００３－１６９６０３（ＪＰ，Ａ）
特表平１０－５０１４０７（ＪＰ，Ａ）

(58)調査した分野(Int.Cl.⁷，ＤＢ名)
Ａ２３Ｆ ３／００ －Ａ２３Ｆ ５／５０

APPENDIX B

Notice of Reasons for Rejection

APPENDIX E

English-Language Translation of Notice of Reasons for Rejection

Mailing number: 309826

Mailing date: August 24, 2004

NOTICE OF REASONS FOR REJECTION

Patent Application No.: JP 2003-420910
Drafting Date: August 19, 2004
Examiner: Kimitaka Murakami (ID 8827 4N00)
Attorney: The Patent Corporate Body Aruga Patent Office (and six others)
Applied provisions: Article 17(2)(iii)

《Final》

The above-identified application is rejected for the following reasons. If there is any opinion to be submitted in response to this notice, Applicant should file a written response within 60 days from the mailing date of this notice.

Reasons

The applicant's Amendment filed July 9, 2004 does not meet the requirement stipulated in Article 17(2)(iii) of the Japanese Patent Law, in that the Amendment is deemed to exceed the scope of the description originally filed by the applicant. The reasons are as follows:

The applicant's amendments to claim 8 ("The packaged beverage according to any one of claims 1-7, wherein said beverage is a carbonated drink, a fruit-extract-containing drink, a vegetable-extract-containing juice, near water or a sport drink") is not supported by the specification originally filed by the applicant, and this amendment is not deemed to be obviously inferable from the specification, either. The present application describes that soft drinks, such as a packaged non-green tea beverage, a fruit-extract-containing drink, a vegetable-extract-containing juice, near water, a sport drink and a dietary drink, can be mentioned as the examples of the non-tea-based beverages (see the Detailed Explanation of the Invention, paragraph [0031]). "Soft drink" represent a collective term for non-alcohol drinks, according to the

Mailing number: 309826

Mailing date: August 24, 2004

explanation of *Kojien, 5th Edition*, which is available from *Iwanami Shoten*. Therefore, it is self-evident that any of a fruit-extract-containing drink, a vegetable-extract-containing juice, near water, a sport drink and a dietary drink is synonymous with a non-alcohol drink. The applicant's new claim 8 fails to include the statement indicting that the beverage is a soft drink and contains no alcohol, so it is obvious that the term "fruit extract-containing drink", for example, encompasses an alcohol-containing drink that was not described in the specification originally filed by the applicant. Furthermore, it does not seem that an alcohol-containing drink is self-evident from the description referring to soft drink.

The claims other than the above are deemed to have no reason to be rejected for this time around. However, if any reason has been found out at a later stage, a subsequent office action will be issued at that time.

This office action is a notice of reasons of rejection involving only the rejection which has been necessitated by the Amendment filed by the applicant responsive to the first office action.

Any inquiry concerning the contents of this Notice should be directed to:

Kimitaka MURAKAMI
The third Patent Examination Department, Biotechnology
TEL: 03-3581-1101(ext. 3402)

* * * * *

整理番号:P06141512 発送番号:309826 発送日:平成16年 8月24日

拒絶理由通知書

KS0782-1

X 10/25

特許出願の番号	特願２００３－４２０９１０
起案日	平成１６年　８月１９日
特許庁審査官	村上　騎見高　　８８２７　４Ｎ００
特許出願人代理人	特許業務法人アルガ特許事務所（外　６名） 様
適用条文	第１７条の２第３項

なし

<<<<　最　後　>>>>

この出願は、次の理由によって拒絶をすべきものである。これについて意見があれば、この通知書の発送の日から６０日以内に意見書を提出して下さい。

理　由

平成１６年　７月　９日付けでした手続補正は、下記の点で願書に最初に添付した明細書に記載した事項の範囲内においてしたものでないから、特許法第１７条の２第３項に規定する要件を満たしていない。

記

補正後の「炭酸飲料、果汁エキス入り飲料、野菜エキス入りジュース、ニアウォーター又はスポーツドリンクである請求項１～７のいずれか１項記載の容器詰飲料。」（請求項８）は出願当初の明細書に記載した事項ではなく、記載から自明な事項でもない。出願当初の明細書の発明の詳細な説明【００３１】には「非茶系容器詰飲料としては、例えばソフトドリンクである炭酸飲料、果汁エキス入り飲料、野菜エキス入りジュースやニアウォーター、スポーツドリンク、ダイエット飲料等が挙げられる。」との記載があり、「ソフトドリンク」は岩波書店「広辞苑第五版」によれば「アルコール分を含まない飲料の総称」であるので、ここにいう「炭酸飲料、果汁エキス入り飲料、野菜エキス入りジュースやニアウォーター、スポーツドリンク、ダイエット飲料」はいずれもアルコール分を含まないものを意味することは明らかである。しかし、補正後の請求項８にはソフトドリンクであるとの規定もアルコールを含まないとの規定もないことから、例えば「果汁エキス入り飲料」が出願当初の明細書に記載されていないアルコール分を含む「果汁エキス入り飲料」をも包含することは明らかである。そして、ソフトドリンクである飲料についての記載からアルコール分を含む飲料が自明な事項であるとは認められない。

この拒絶理由通知書中で指摘した請求項以外の請求項に係る発明については、現時点では、拒絶の理由を発見しない。拒絶の理由が新たに発見された場合には拒絶の理由が通知される。

最後の拒絶理由通知とする理由

1．最初の拒絶理由通知に対する応答時の補正によって通知することが必要になった拒絶の理由のみを通知する拒絶理由通知である。

この拒絶理由通知の内容に関するお問い合わせがございましたら下記までご連絡下さい。

特許審査第三部生命工学 村上騎見高
ＴＥＬ．０３（３５８１）１１０１ 内線３４０２

APPENDIX D

English-Language Translation of Explanation of Circumstances Concerning Accelerated Examination

[Name of Document] The Explanation of Circumstances Concerning Accelerated Examination

[Destination] Commissioner of the Patent Office

[Indication of Case]

[Application Number] Japanese Patent Application No. 2003-420

[Submitting Person]

[Identification Number] 000000918

[Name or Appellation] KAO CORPORATION

[Attorney]

[Identification Number] 110000084

[Name or Appellation] The Patent Corporate Body Aruga Patent Office

[Representative] NAKAJIMA Toshio

[Explanation of Circumstances Concerning Accelerated Examination]

1. Circumstances

The accelerated examination relates to a packaged beverage disclosed in Claim 1 of the present invention, which is scheduled to be manufactured from January, 2005. As disclosed in Claim 1, the packaged beverage is a packaged beverage with a green-tea extract mixed therein, wherein a ratio of a non-polymer catechins to an oxalic acid or a salt thereof and a ratio of the non-polymer catechins to caffeine are in predetermined ranges, an oxalic acid or a salt thereof; and caffeine.

2. Prior Art And Comparison

(1) Prior Art Documents

The applicant sufficiently discloses prior art documents in Paragraphs [0002] to [0004] of the Specification. The prior art documents disclosed by the applicant are as follows.

a. Japanese Patent Application Laid-Open No. 60-156614

b. Japanese Patent Application Laid-Open No. 3-133928

c. Japanese Patent Application Laid-Open No. 2002-142677

d. Japanese Patent Application Laid-Open No. 8-298930

e. Japanese Patent Application Laid-Open No. 8-109178

f. Japanese Patent Application National Publication No. 10-501407

g. Japanese Patent No. 3378577

(2) Comparison

i) The present invention discloses a packaged beverage as described in Claims.

(Claim 1) A packaged beverage with a green-tea extract mixed therein, comprising the following ingredients (A) to (C):

(A) 0.01 to 1.0 wt% of non-polymer catechins;

(B) an oxalic acid or a salt thereof; and

(C) caffeine,

wherein a content weight ratio [(B)/(A)] of the oxalic acid or the salt thereof (B) to the non-polymer catechins (A) is in a range of from 0.00005 to 0.1, and wherein a content weight ratio [(A)/(C)] of the non-polymer catechins (A) to the caffeine (C) is in a range of from 5 to 10000.

(Claim 2) The packaged beverage according to claim 1, wherein the packaged beverage is a non-tea-based beverage.

(Claim 3) The packaged beverage according to claim 1 or 2, wherein the packaged beverage further comprises 0.001 to 0.5 wt% of sodium ions and 0.001 to 0.2 wt% of potassium ions.

(Claim 4) The packaged beverage according to any one of claims 1 to 3, wherein the packaged beverage further comprises 0.0001 to 20 wt% of a sweetener.

(Claim 5) The packaged beverage according to any one of claims 1 to 4, wherein the content weight ratio [(B)/(A)] of the oxalic acid or the salt thereof (B) to the non-polymer catechins (A) is in a range of from 0.00005 to 0.05.

(Claim 6) The packaged beverage according to any one of claims 1 to 5, wherein the content weight ratio [(A)/(C)] of the non-polymer catechins (A) to the caffeine (C) is in a range of from 10 to 10000.

(Claim 7) The packaged beverage according to any one of claims 1 to 6, wherein the pH of the packaged beverage is in a range of from 2 to 5.

(Claim 8) The packaged beverage according to any one of claims 1 to 7, wherein the green-tea extract as a raw material is obtained by removing the caffeine from a concentrate of the green-tea extract containing 20 to 90 wt% of the non-polymer catechins in a solid content, such that the content weight ratio [(A)/(C)] of the non-polymer catechins (A) to the oxalic acid or the salt thereof (C) is in a range of from 5 to 10000.

(Claim 9) The packaged beverage according to any one of

claims 1 to 8, wherein the packaged beverage is in such a form that 300 mg or more of the non-polymer catechins can be ingested per day.

(Claim 10) The packaged beverage according to any one of claims 1 to 9, wherein the packaged beverage is filled in a transparent container.

As described above, the packaged beverage according to the present invention is obtained by mixing a green-tea extract therein to contain a high concentration of non-polymer catechins, adjusting a ratio of an oxalic acid to the non-polymer catechins to be in a specific range, and adjusting a ratio of the non-polymer catechins to caffeine to be in a specific range. By employing features as such, it is possible to obtain advantages in that the packaged beverage contains a high concentration of the non-polymer catechins, has no different taste and flavor from those of a green tea, has reduced bitterness and astringency so as to be suitable for long-term drinking, has a stability of bitterness and astringency and a good swallow feeling, remains a long-term stability of color tone during a high temperature storage in a transparent container, and is particularly useful as a non-tea-based packaged beverage.

ii)

A. The document (a) discloses that tea catechins is useful as a cholesterol level suppressor. In addition, the document (b) discloses that tea polyphenol of the tea catechins or the like is useful as an α-amylase activation suppressor.

However, the packaged beverage containing the non-polymer catechins is not disclosed in the documents (a) and (b). In addition, the object of the present invention such as a problem caused from long-term drinking, the adjustment of an ratio of an oxalic acid to the non-polymer catechins to be in a specific, and the adjustment of a ratio of the non-polymer catechins to caffeine to be in a specific range are not disclosed, or suggested.

B. The document (c) discloses a packaged beverage containing dissolved catechins of non-epi catechins (A) and epi catechins (B), wherein contents thereof are (a) (A)+(B)=460 to 2500 mg, (b) (A)=160 to 2250 mg, (c) (A)/(B)=0.54 to 0.90 per 500 mL beverage packaged in a container. In addition, the document (c) also discloses a packaged beverage manufacturing method, in which a concentrate of a green-tea extract is mixed.

However, in the document (c), the most important features of the present invention, that is, the adjustment of a ratio of an oxalic acid to the non-polymer catechins to be in a specific range and the adjustment of a ratio of the non-polymer catechins to caffeine to be in a specific range are not disclosed.

C. The document (d) disclose a tea beverage having reduced astringency by saccharide distribution of a polyphenol and, more specifically, a method of manufacturing a tea extract or a tea beverage having reduced astringency by mixing a tea extract or a tea beverage with at least on of dextrin, cyclo-dextrin, and starch and reacting cyclo-malto dextrin glucanotransferase thereon.

In addition, the document (e) discloses a method of manufacturing a low-caffeine tea polyphenol by dissolving or suspending a tea extract in water or a water-containing organic solvent and contacting it with a synthetic adsorptive under an alkali condition to remove caffeine.

However, in the documents (d) and (e), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are not disclosed. In addition, in the documents (d) and (e), the most important features of the present invention, that is, the adjustment of a ratio of an oxalic acid to the non-polymer catechins to be in a specific range and the adjustment of a ratio of the non-polymer catechins to caffeine to be in a specific range are not disclosed, and any hint thereof dose not exist.

D. The document (f) discloses a fluid composite comprising (a) 0.01 to 0.35% of flavanol, (b) 0.01 to 0.3% of sodium ions, (c) 0.005 to 0.08% of potassium ions, (d) 0.1 to 20% of a carbohydrate substance supplying (i) 0.05 to 10.0% of fructose and (ii) 0.05 to 10.0% of glucose, and (e) water. As an example of the flavanol, catechins is disclosed therein.

However, in the document (f), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness

and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are not disclosed. In addition, in the document (f), the most important features of the present invention, that is, the adjustment of a ratio of an oxalic acid to the non-polymer catechins to be in a specific range and the adjustment of a ratio of the non-polymer catechins to caffeine to be in a specific range are not disclosed, or suggested.

E. The document (g) discloses a beverage with a concentrate or a refined material of a tea extract therein, wherein the beverage contains (A) non-polymer catechins and (B) a quinic acid, and wherein a content weight ratio [(B)/(A)] of the ingredient (B) to the ingredient (A) is in a range of from 0.01 to 1.0.

Although a residing feeling unique to the catechins after drinking is disclosed, in the document (g), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are not disclosed. In addition, in the document (g), the most important features of the present invention, that is, the adjustment of a ratio of the oxalic acid to the non-polymer catechins to be in a specific range and the adjustment of a ratio of the non-polymer catechins to the

caffeine to be in a specific range are not disclosed, or suggested.

F. As described above, in any one of the documents (a) to (g), the important features of the present invention, that is, the adjustment of a ratio of an oxalic acid to the non-polymer catechins to be in a specific range and the adjustment of a ratio of the non-polymer catechins to caffeine to be in a specific range are not disclosed, or suggested.

According to the present invention, as disclosed in Paragraphs [0011] and [0012] and Table 1 of the specification, a packaged beverage obtained by adjusting the ratio [(B)/(A)] of the oxalic acid or the salt thereof (B) to the non-polymer catechins (A) to be in a range of from 0.00005 to 0.1 and adjusting the ratio [(A)/(C)] of the non-polymer catechins (A) to the caffeine (C) be in a range of from 5 to 10000 can have useful advantages such as a long-term drinking ability, a stability of bitterness and astringency, a good swallow feeling, and a stability of color tone in comparison with packaged beverages having ratios deviating from the aforementioned ranges (see Comparison Examples 1 and 3 in Table 1).

Therefore, it is obvious that the present invention cannot be easily derived from any combinations of the documents (a) to (g) by the ordinarily skilled in the art.

【書類名】 早期審査に関する事情説明書
【あて先】 特許庁長官 殿
【事件の表示】
【出願番号】 特願２００３－４２０９１０
【提出者】
【識別番号】 ０００００００９１８
【氏名又は名称】 花王株式会社
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【識別番号】 １１０００００８４
【氏名又は名称】 特許業務法人アルガ特許事務所
【代表者】 中嶋 俊夫
【早期審査に関する事情説明】

１．事情

請求項１に記載されているように、緑茶抽出物を配合し、非重合体カテキン類、シュウ酸又はその塩及びカフェインを一定の比率で含有する容器詰飲料を、平成１７年１月より生産開始する予定の実施関連発明である。

２．先行技術及び対比説明

（１）文献名

出願人は明細書段落（０００２）～（０００４）において先行技術を十分に開示している。現在出願人が把握している先行技術文献は以下の通りである。

ａ．特開昭６０－１５６６１４号公報
ｂ．特開平３－１３３９２８号公報
ｃ．特開２００２－１４２６７７号公報
ｄ．特開平８－２９８９３０号公報
ｅ．特開平８－１０９１７８号公報
ｆ．特表平１０－５０１４０７号公報
ｇ．特許第３３７８５７７号公報

（２）対比説明

ｉ）本願発明は、特許請求の範囲に記載されたとおりの、

「（請求項１）　緑茶抽出物を配合した容器詰飲料であって、次の成分（Ａ）、（Ｂ）及び（Ｃ）、

（Ａ）非重合体カテキン類　　０．０１～１．０重量％、

（Ｂ）シュウ酸又はその塩

（Ｃ）カフェイン

を含有し、（Ｂ）シュウ酸又はその塩と（Ａ）非重合体カテキン類との含有重量比［（Ｂ）／（Ａ）］が０．００００５～０．１であり、且つ（Ａ）非重合体カテキン類と（Ｃ）カフェインとの含有重量比［（Ａ）／（Ｃ）］が５～１００００である容器詰飲料。

（請求項２）　飲料が非茶系飲料である請求項１記載の容器詰飲料。

（請求項３）　更にナトリウムイオン０．００１～０．５重量％、及びカリウムイオン０．００１～０．２重量％を含有する請求項１又は２記載の容器詰飲料。

（請求項４）　更に甘味料を０．０００１～２０重量％含有する請求項１～３のいずれか１項記載の容器詰飲料。

（請求項５）　（Ｂ）シュウ酸又はその塩と（Ａ）非重合体カテキン類との含有重量比［（Ｂ）／（Ａ）］が０．００００５～０．０５である請求項１～４のいずれか１項記載の容器詰飲料。

（請求項６）　（Ａ）非重合体カテキン類と（Ｃ）カフェインとの含有重量比［（Ａ）／（Ｃ）］が１０～１００００である請求項１～５のいずれか１項記載の容器詰飲料。

（請求項７）　pHが２～５である請求項１～６のいずれか１項記載の容器詰飲料。

（請求項８）　原料緑茶抽出物が、固形分中に非重合体カテキン類を２０～９０重量％含有する緑茶抽出物の濃縮物から、（Ａ）非重合体カテキン類と（Ｃ）カフェインとの含有重量比［（Ａ）／（Ｃ）］が５～１００００の範囲になようにカフェインを除去したものである請求項１～７のいずれか１項記載の容器詰飲料。

（請求項９）　非重合体カテキン類として１日３００mg以上摂取できる形態である請求項１～８のいずれか１項記載の容器詰飲料。

（請求項１０）　透明容器に充填されたものである請求項１～９のいずれか１項記載の容器詰飲料。」

に係るものである。

本願発明の容器詰飲料は、上記の如く、緑茶抽出物を配合して非重合体カテキン類を高濃度に含有し、非重合体カテキン類とシュウ酸とカフェインの比率を一定範囲に調整したことを特徴とするものであり、このような構成を採用することにより、「非重合体カテキン類を高濃度含有し、かつ緑茶風味の他異味・異臭がなく、苦味、渋味が低減され長期間の飲用に適し、また苦味、渋味の安定性及び喉越しに優れ、また、透明容器に充填して高温保存しても長期間色調が安定であり、特に非茶系容器詰飲料として有用である」という効果を有するものである。

ii)

イ．文献ａには、茶カテキン類がコレステロール上昇抑制剤として有用であることが記載されている。また、文献ｂには、茶カテキン等の茶ポリフェノールがα－アミラーゼ活性阻害剤として有用であることが記載されている。

しかし、これらの文献ａ及びｂのいずれにも、非重合体カテキン類を含有する容器詰飲料については全く記載されておらず、長期間飲用した場合の問題点等の本願発明の課題及び非重合体カテキン類とシュウ酸とカフェインの比率を一定の範囲に調整することについての何の記載がないばかりか示唆さえ存しない。

ロ．文献ｃには、（Ａ）非エピ体カテキン類及び（Ｂ）エピ体カテキン類のカテキン類を溶解して含有し、それらの含有量が容器詰めされた飲料５００㎖当り、（イ）（Ａ）＋（Ｂ）＝４６０～２５００㎎、（ロ）（Ａ）＝１６０～２２５０㎎、（ハ）（Ａ）／（Ｂ）＝０．５４～０．９０である容器詰飲料が記載されている。そして文献ｃには、容器詰飲料の製造にあたり、緑茶抽出物の濃縮物を配合することが記載されている。

しかしながら、文献ｃには、本願発明の最も重要な構成である、非重合体カテキン類とシュウ酸とカフェイン比率を一定範囲に調整することについては、何の記載もない。

ハ．文献ｄには、ポリフェノール類を配糖化することにより渋味を低減した茶飲料、さらに詳細には茶抽出物または茶飲料をデキストリン、サイクロデキストリンおよび澱粉の

うちの少なくとも１種とを混ぜ、これにサイクロマルトデキストリングルカノトランスフェラーゼを作用させることを特徴とする渋みを低減した茶抽出物または茶飲料の製造法が記載されている。

また、文献ｅには、茶抽出物を水または含水有機溶媒中に溶解または懸濁し、これをアルカリ性条件下、合成吸着剤と接触させてカフェインを吸着除去することを特徴とする低カフェイン茶ポリフェノールの製造法が記載されている。

しかしながら、文献ｄ及びｅのいずれにも、本願発明の課題である、非重合体カテキン類含有容器詰飲料についての長期飲用に耐えられる風味の向上、苦味渋みの安定性及び喉ごしの向上、高温保存時の色調の改善等については全く記載されていない。そして、文献ｄ及びｅのいずれにも、本願発明の最も重要な構成である、非重合体カテキン類とシュウ酸とカフェイン比率を一定の範囲に調整することについては何の記載もないばかりか示唆さえ存しない。

ニ．文献ｆには、（ａ）０．０１～０．３５％フラバノール（ｂ）０．０１～０．３％ナトリウムイオン（ｃ）０．００５～０．０８％カリウムイオン（ｄ）（ｉ）０．０５～１０．０％フルクトース（ii）０．０５～１０．０％グルコースを供給する０．１～２０％炭水化物、及び（ｅ）水を含んでなる流体組成物が記載され、当該フラバノールの例としてはカテキン類が記載されている。

しかしながら、文献ｆには、本願発明の課題である、非重合体カテキン類含有容器詰飲料についての長期飲用に耐えられる風味の向上、苦味渋みの安定性及び喉ごしの向上、高温保存時の色調の改善等については全く記載されていない。そして、文献ｆには、本願発明の最も重要な構成である、非重合体カテキン類とシュウ酸とカフェインの比率を一定の範囲を調整することについては、何の記載もないばかりか示唆さえ存しない。

ホ．文献ｇには、茶抽出物の濃縮物又は精製物を配合した（Ａ）非重合体カテキン類（Ｂ）キナ酸を含有し、成分（Ａ）と（Ｂ）の含有重量比［（Ｂ）／（Ａ）］が０．０１～１．０である飲料が記載されている。

しかしながら、文献ｇには、飲用後のカテキン類固有の残留感については記載されているものの、本願発明の課題である、非重合体カテキン類含有容器詰飲料についての長期飲

用に耐えられる風味の向上、苦味渋味の安定性、喉ごしの良さ、高温保存時の色調の安定性等については全く記載されていない。そして、文献ｇには、本願発明の構成である、非重合体カテキン類とカフェインとの含有量比を一定範囲に調整することについては、何の記載もないばかりか示唆さえ存しない。

へ．前記の如く、文献ａ～ｇのいずれにも、非重合体カテキン類とシュウ酸とカフェインの比率を一定の範囲に調整するという本願発明の重要な構成については何の記載もないばかりか示唆さえ存しない。

そして、本願発明においては、明細書段落（００１１）、（００１２）及び表１に記載の如く、非重合体カテキン類（Ａ）とシュウ酸又はその塩（Ｂ）とカフェイン（Ｃ）の間の比率、（Ｂ）／（Ａ）を０．００００５～０．１、（Ｃ）／（Ａ）を５～１００００に調整した容器詰飲料が、当該比率がこの範囲外の容器詰飲料（表１中の比較例１～３参照）に比べて、長期間の飲用性、苦味渋味の安定性、喉ごしの良さ及び色調の安定性において顕著に優れるという有利な効果を奏するものである。

従って、本願発明は、文献ａ～ｇに記載の発明を組み合せても、当業者にとって容易に想到できない発明であることが明らかである。

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Notes:
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

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Dictionary: Last updated 09/07/2007 / Priority:

Decision to Grant a Patent

Application number: Application for patent 2003-420910
Date of Drafting: Heisei 16(2004) October 18
Patent examiner: MURAKAMI, Kimitaka 8827 4N00
Title of invention: Bottled beverage
The number of claims: 8
Applicant: KAO CORPORATION
Representative: THE PATENT CORPORATE BODY ARUGA PATENT OFFICE (and 6 others)

This application is to be granted a patent as there is no reason for refusal.

Director General(p.p.) Director(p.p.) Examiner Assistant examiner Manager for Determination of Classification UCHIDA, Junko MURAKAMI, Kimitaka MURAKAMI, Kimitaka 8115 8827 8827

1. Distinction of Patent: Usually
2. Reference documents: **
3. Application of Patent Law, Section 30: Nothing
4. Change of Title of Invention: Nothing
5. International Patent Classification (IPC)
A23F 3/16 , A23L 2/38 C, A23L 2/00 F

6. Patent Classification Additionally Assigned.
Edition code 4

7. Deposition of Microorganism

8. Indication that Retroactivity of Division/conversion Is Prohibited.

Decision to Grant a Patent(Memorandum)

Application number: Application for patent 2003-420910

1. Technical Fields to Be Searched (IPC, 7th Edition, DB Name)
A23F 3/00 -A23F 5/50

2. Reference patent documents
JP,06-311847,A (JP, A) JP,2003-169603,A (JP, A) Patent Publication Heisei 10-501407 (JP, A)

3. Reference books and magazines

[Translation done.]

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

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

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

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In re Application of	:	DECISION ON REQUEST TO
Masaki IWASAKI et al	:	PARTICIPATE IN PATENT
Application No. 10/583556	:	PROSECUTION HIGHWAY
Filed: June 19, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 292745US0PCT	:	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 September 21, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kathryn Gorgos
TQAS TC 1700

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

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

In re Application of	:	DECISION ON REQUEST TO
Naoki HOSOYA et al	:	PARTICIPATE IN PATENT
Application No. 10/583558	:	PROSECUTION HIGHWAY
Filed: June 19, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 292752US0PCT	:	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 September 21, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kathryn Gorgos
TQAS TC 1700

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Rasmus Breivik	: DECISION ON REQUEST FOR
Patent Number	: 7600742	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **674** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Jean-Marie Beau	: DECISION ON REQUEST FOR
Patent Number	: 7619076	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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10 JUL 2007

JENKINS, WILSON, TAYLOR & HUNT, P. A.
SUITE 1200, UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM, NC 27707

In re Application of	:	
DESIMONE, Joseph, M. et al.	:	
Application No.: 10/583,570	:	DECISION ON
PCT No.: PCT/US04/42706	:	
Int. Filing Date: 20 December 2004	:	PETITION
Priority Date: 19 December 2003	:	
Attorney's Docket No.: 421/90 PCT/US	:	UNDER 37 CFR 1.182
For: METHODS FOR FABRICATING ...	:	
OR IMPRINT LITHOGRAPHY	:	

This decision responds to applicant's petition to correct an inventor's name, filed with the United States Patent and Trademark Office on 05 March 2007. It has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 20 December 2004, applicant filed international application PCT/US04/42706, claiming a priority date of 19 December 2003. The deadline for entry into the national stage in the United States was midnight 19 June 2006.

On 19 June 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee and an unexecuted declaration of the inventors.

On 14 February 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing the search fee, examination fee or oath or declaration were required and indicating that the last name of the eighth inventor did not match the international application and that an clarification was required.

On 05 March 2007, applicant submitted this petition and an executed declaration.

DISCUSSION

The fee for a petition under 37 CFR 1.182 is $400. The petition fee will be charged to deposit account no. 50-0426, as authorized.

MPEP 605.04(c) sets out how to change an applicant's name for national phase.

Applicant must provide a signed statement from the inventor listing her former name, her current name and the reason for the change. Here the attorney has made the statements, not the inventor.

Additionally, the name of the third inventor has also been changed. The inventor is listed as Ansley E. Exner on the international application, but as Ansley E. Dennis on the declaration. A statement explaining the inventor explaining this change is also required.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) or a renewed petition under 37 CFR 1.182 is required within **TWO (2) MONTHS** of the mailing of this decision. Failure to timely reply will result in the abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 1 NOV 2007

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD., Suite 1200
DURHAM NC 27707

In re Application of	:	
DESIMONE, Joseph, M.. et al.	:	
Application No.: 10/583,570	:	DECISION ON
PCT No.: PCT/US2004/042706	:	
Int. Filing Date: 20 December 2004	:	PETITION
Priority Date: 19 December 2003	:	
Attorney's Docket No.: 421/90 PCT/US	:	UNDER 37 CFR 1.182
For: METHODS FOR FABRICATING ...	:	
OR IMPRINT LITHOGRAPHY	:	

This decision responds to applicant's petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 14 September 2007.

BACKGROUND

On 10 July 2007, the Office mailed Decision On Petition Under 37 CFR 1.182, dismissing applicant's petition to change inventor names, without prejudice.

On 12 July 2007, the Office mailed Notification of a Defective Response (Form PCT/DO/EO/916) indicating, *inter alia*, that a Sequence Listing in computer readable format was required within one month.

On 14 September 2007, applicant filed this renewed petition, a sequence listing and a diskette.

DISCUSSION

The declaration is executed by Ansley E. Dennis and Ginger Denison Rothrock. The international application listed Ansley E. Exner and Ginger Denison.

Applicant has supplied statements signed by Ansley E. Dennis and Ginger Denison Rothrock stating that their names changed subsequent to their marriages. This is an adequate explanation. The declaration of the inventors complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision, pending processing of the computer readable format.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

COPY MAILED
JAN 08 2010

Applicant: Desimone et al.
Appl. No.: 10/583,570
International Filing Date: December 20, 2004
Title: Methods For Fabricating Isolated Micro-And Nano-Structures Using Soft Or Imprint Lithography
Attorney Docket: 035052/338899
Pub. No.: US 2009/0028910 A1
Pub. Date: January 29, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 30, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the publication misstates the dependency of claim 60 from claim 59 rather than claim 57.

37 CFR 1.221 (b) is applicable:

> "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable" (*emphasis added*).

A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to failure to include the preliminary amendment in the publication is <u>not</u> an Office error. See 37 CFR 1.215(a). Applicant's attention is further directed to MPEP 1130(B), which clearly states "failure to include an amendment is not an Office error . .

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

. [a] request for corrected publication under 37 CFR 1.221(b) may result in a patent term adjustment reduction where the Office made only non-material errors."

The requirements for inclusion of an amendment in a patent application publication are set forth in 37 C.F.R. § 1.215. Applicant did not file a copy of the application in compliance with the Office electronic filing systems requirements. See 37 CFR 1.215 and MPEP 1121.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on March 30, 2009, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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".

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

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1 0 OCT 2007

Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of MERSMANN et al. Application No.: 10/583,592 PCT No.: PCT/EP04/14358 Int. Filing Date: 16 December 2004 Priority Date: 19 December 2003 Attorney Docket No.: 09792511-0250 For: REGULATING DEVICE FOR THE COOLING AIR FLOWS OF A BULK MATERIAL GRATE COOLER	:	DECISION ON PETITION

This decision is issued in response to applicants' "Petition under 37 CFR 1.181" filed 10 May 2007. No petition fee is required.

BACKGROUND

On 16 December 2004, applicants filed international application PCT/EP04/14358 which claimed a priority date of 19 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 19 June 2006.

On 19 June 2006, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 05 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 10 May 2007, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney; a post card receipt for application no. 10/585,592; and a copy of a transmittal letter for application no. 10/585,592.

DISCUSSION

A review of the application file confirms the presence of the original response to the Notification Of Missing Requirements filed by applicants on 26 February 2007, including the executed declaration. These documents bear a USPTO receipt stamp dated 26 February 2007, confirming the asserted filing date. Accordingly, applicants' present petition to confirm this filing is granted.

The declaration filed 26 February 2007 is in compliance with 37 CFR 1.497 and constitutes a proper and timely response to the Notification Of Missing Requirements mailed 05 February 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

The declaration filed by applicants on 26 February 2007 is accepted 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 accord with this decision

Anthony Smith

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

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19 FEB 2010

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50438
JUNEAU PARTNERS
333 N. Fairfax Street
Suite 305
Alexandria, VA 22301

In re Application of
MARCOLONGO *et al*
U.S. Application No.: 10/583,605
PCT No.: PCT/IT2004/000713
Int. Filing Date: 21 December 2004
Priority Date: 22 December 2003
Docket No.: 128.1016
For: POLYMETAPHOSPHATE BASED FORMULATIONS FOR THERAPY OF MICROCRYSTALLINE ARTHROPATHIES

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 30 November 2009 is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) & (b) and a $65.00 surcharge fee was provided. This is an appropriate reply 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 07 May 2007. The petition fee for a small entity has been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/21/2010

Applicant	: Mark Alan Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7651226	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,612	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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2 9 FEB 2008

ALLEN C. TURNER
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110-2550

In re Application of CATTANEO et al	:	
U.S. Application No.: 10/583,618	:	
PCT Application No.: PCT/IT2004/000722	:	
Int. Filing Date: 23 December 2004	:	DECISION
Priority Date Claimed: 24 December 2003	:	
For: METHOD FOR THE HUMANIZATION OF	:	
ANTIBODIES AND HUMANIZED	:	
ANTIBODIES THEREBY OBTAINED	:	

This is in response to applicant's "Petition for Access Under 37 C.F.R. 1.14(g)(3).

Pursuant to 37 CFR 1.14(b), the Office has elected to provide access to only the electronic copy of the application file. At present, the electronic copy of the application file is unavailable. The electronic copy of the present application file will be accessible on the Office's Public Pair system (http://portal.uspto.gov/external/portal/pair) when the national stage application has published. There is no estimate as to when publication of the present application is expected to occur.

For the reasons above, the petition under 37 CFR 1.14 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.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

0 7 NOV 2008

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STEFFEN SOLLER
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110-2550

In re Application of CATTANEO et al	:	
U.S. Application No.: 10/583,618	:	
PCT Application No.: PCT/IT2004/000722	:	
Int. Filing Date: 23 December 2004	:	DECISION
Priority Date Claimed: 24 December 2003	:	
For: METHOD FOR THE HUMANIZATION OF	:	
ANTIBODIES AND HUMANIZED	:	
ANTIBODIES THEREBY OBTAINED	:	

This is in response to applicant's "Petition to the Director Under 37 C.F.R. 1.181(a)(3)" filed 20 August 2008.

The petition requests the Office to provide petitioner with access to the file wrapper for the above-identified U.S. national stage application.

Pursuant to 37 CFR 1.14(b), the Office has elected to provide access to only the electronic copy of the application file. A review of Office records indicates that the electronic copy of the present application file is currently accessible on the Office's Public Pair system (http://portal.uspto.gov/external/portal/pair).

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED AS MOOT.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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2 8 MAY 2009

JUNEAU PARTNERS
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ALEXANDRIA, VA 22301

In re Application of CATTANEO et al	:	
U.S. Application No.: 10/583,618	:	
PCT Application No.: PCT/IT2004/000722	:	
Int. Filing Date: 23 December 2004	:	
Priority Date Claimed: 24 December 2003	:	DECISION
Attorney Docket No.: DC/MS/94250AE	:	
For: METHOD FOR THE HUMANIZATION OF	:	
ANTIBODIES AND HUMANIZED	:	
ANTIBODIES THEREBY OBTAINED	:	

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 September 2008.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/IT2004/000722, which claimed priority of an earlier Italy application filed 24 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 June 2006.

On 20 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 July 2007, applicant filed an executed declaration.

On 17 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 02 July 2007 failed to list the citizenship of one of the inventors.

On, the present application became abandoned for failure to timely

On 18 October 2007, international application PCT/IT2004/000722 became abandoned as to the United States for failure to timely respond to the Notification of Defective Response.

On 19 September 2008, applicant filed a petition under 37 CFR 1.137(b) along with an executed declaration.

On 20 April 2009, applicant filed an executed declaration.

On 24 April 2009, applicant filed a copy of the 19 September 2008 petition.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 23 December 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 April 2009.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

JUNEAU PARTNERS
P.O. BOX 2516
ALEXANDRIA, VA 22301

In re Application of	:	
Antonino Cattaneo, et al.	:	
Application No. 10/583,618	:	DECISION ON PETITION
Filed: June 20, 2006	:	TO WITHDRAW
Attorney Docket No. AbdnByClnt-Catteneo94250	:	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 1, 2010.

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

A review of the file record indicates that the power of attorney to Juneau Partners has been revoked by the assignee of the patent application on September 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LUCAS & MERCHANT, LLP**
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

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LEIF SLOAN
NORTHSTAR NEUROSCIENCE
2401 FOURTH AVENUE
SUITE 300
SEATTLE WA 98121

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Andres M. Lozano	:	DECISION ON PETITION
Application No. 10/583,630	:	TO WITHDRAW
Filed: July 23, 2007	:	FROM RECORD
Attorney Docket No. 337348067US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 19, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that John M. Wechkin does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Further, a review of USPTO records reveals that the Authorization to Act in a Representative Capacity filed June 20, 2006 was improperly recorded as a Power of Attorney by the USPTO. In view of these facts the Power of Attorney must be corrected by reverting to the original Power of Attorney filed by Applicant June 20, 2009.

The request to change the correspondence address of record is not accepted in view of Mr. Wechkin not having power of attorney. See MPEP §§ 601.03 and 405. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, all future communications from the Office will continue to be directed solely to the address of record until proper instructions have been received.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: John M. Wechkin
Perkins Coie LLP
P.O. Box 1247
Seattle WA 98111-1247

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SUITE 300
SEATTLE WA 98121

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Andres M. Lozano	:	DECISION ON PETITION
Application No. 10/583,630	:	TO WITHDRAW
Filed: July 23, 2007	:	FROM RECORD
Attorney Docket No. 337348067US	:	

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 September 18, 2009.

The request is **APPROVED**.

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

The request was signed by Leif R. Sloan on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Andres Lozano
c/o Functional Neuroscience Inc.
442 Russell Hill Road
Toronto, ON M5P2S5

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30 NOV 2007

BSH Home Appliances Corporation
Intellectual Property Department
100 Bosch Boulevard
New Bern, NC 28562

In re Application of	:	
CLASSEN, et al.	:	
Application No.: 10/583,637	:	
PCT No.: PCT/EP04/53445	:	DECISION ON PAPERS
Int. Filing Date: 14 December 2004	:	
Priority Date: 23 December 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 2003P01972WOUS	:	
For: CONNECTOR DEVICE FOR PRODUCING AN ELECTRICAL CONNECTION BETWEEN A MAINS CABLE AND A LOOM	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 03 August 2007 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 14 December 2004, applicant filed international application PCT/EP04/53445, which claimed priority to an earlier application filed 23 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2006.

On 20 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary amendment, an Application Data Sheet and an English translation of the international application.

On 02 May 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 August 2007, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a one-month

extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 03 August 2007 was executed by joint inventors Egbert Classen and Hans-Dieter Rossteuscher, as well as, Erika Ertle, Marion Ertle, Lisa Ertle and Marco Ertle as heirs of the estate of deceased inventor, Roland Ertle. The filed declaration provides the citizenship, residence, and mailing address of both the deceased inventor and the signing heirs. However, it is not possible to accept the declaration at this time. Applicant has included a paper which appears to detail the heirs of the estate of the deceased inventor, however, applicant has not included an English translation of the this document nor a statement from counsel that the parties who executed the declaration on behalf of Mr. Ertle represent all of the heirs of his estate. Similarly, applicant has submitted a declaration including German text. Applicant has not used the Form PTO/SB/103 for this application. As discussed in the Manual of Patent Examining Procedure (MPEP) section 602.06:

> Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

Therefore, absent an English translation it is not possible to accept applicant's declaration at this time.

CONCLUSION

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

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

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

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

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07 FEB 2008

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BSH Home Appliances Corporation
Intellectual Property Department
100 Bosch Boulevard
New Bern, NC 28562

In re Application of	:	
CLASSEN, et al.	:	
Application No.: 10/583,637	:	
PCT No.: PCT/EP04/53445	:	DECISION ON PAPERS
Int. Filing Date: 14 December 2004	:	
Priority Date: 23 December 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 2003P01972WOUS	:	
For: CONNECTOR DEVICE FOR PRODUCING AN ELECTRICAL CONNECTION BETWEEN A MAINS CABLE AND A LOOM	:	

This decision is in response to the "Renewed Petition Under 37 CFR 1.42" filed 01 February 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 30 November 2007, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 01 February 2008, applicant filed the present renewed petition. The filing contains certification under 37 CFR 1.8 that the renewed petition was deposited for mailing on 30 January 2008 and is therefore considered timely filed.

DISCUSSION

As detailed in the decision mailed 30 November 2007, 37 CFR 1.42 When the Inventor is Dead, states, in part:

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

With the present renewed petition and English translation of the inheritance certificate, applicant has satisfied the remaining issues listed in the 30 November 2007 decision. Specifically, applicant has certified that the English translation of the German declaration is

accurate and that individuals executing the declaration on the behalf of inventor Ertle represent all of the heirs of the estates. As such, it is proper to grant the request for status at this time.

CONCLUSION

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

This application will be given an international application filing date of 14 December 2004 and a date of **03 August 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
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Office of PCT Legal Administration
Tel: (571) 272-3294
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1 3 DEC 2007

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

In re Application of	:	
DE KEERSMAECKER, Koen	:	
Application No.: 10/583,640	:	
PCT No.: PCT/BE2004/000182	:	
Int. Filing Date: 22 December 2004	:	DECISION
Priority Date: 22 December 2003	:	
Docket No.: IMEC320.001 APC	:	
For: THE USE OF MICROELECTRIC STRUCTURES FOR PATTERNED DEPOSITION OF MOLECULES ONTO SURFACES	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

Applicants filed a declaration of the inventors along with the basic national fee on 20 June 2006. The declaration contained one page 1 and two pages 2. The pages listed the same inventor, but were separately executed. This indicates that multiple copies of the declaration were pieced together to create a single composite declaration. This is not permitted.

On 19 March 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required and that the declaration previously submitted included an inventor not listed on the published international application.

On 27 April 2007, applicants submitted a new declaration with all the pages, listing the same three inventors.

On 23 November 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916), indicating that the third named inventors was not listed on the international publication.

DISCUSSION

While the inventor was not listed on the published international, he was added under PCT Rule 92*bis* during the international phase, though the forms indicating the change were not

present in the file. Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*.

As such, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 23 November 2007, issued in error and is hereby **VACATED**.

CONCLUSION

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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HOUSTON TX 77056

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Julien Gatineau et al	:	
Application No.10/583,641	:	DECISION ON PETITION
Filed: December 3, 2008	:	
Attorney Docket No. Serie 6397	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed April 7, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00 extension of time fee submitted with the petition on December 3, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received December 3, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104

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OFFICE OF PETITIONS

In re Application of	:	
Timothy John Norman	:	
Application No. 10/583,642	:	DECISION ON PETITION
Filed: June 20, 2006	:	TO WITHDRAW
Attorney Docket No. Cell-0317	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to Woodcock Washburn LLP has been revoked by the assignee of the patent application on December 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDonnell Boehnen Hulbert & Berghoff LLP**
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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17 AUG 2006

Blakely, Sokoloff, Taylor &
Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles,CA 90025

In re Application of	:	DECISION ON
Fabrice Madigou, et al	:	
Application No.: 10/583,651	:	
PCT No.: PCT/FR2003/003792	:	
Int. Filing Date: 18 December 2003	:	PETITION UNDER
Priority Date: 18 December 2002	:	
Attorney's Docket No.: 15675P615	:	
For: Game Mobile Element, Such as a Game Piece,	:	
And Related Game System	:	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 16 June 2006.

BACKGROUND

On 18 December 2003, this international application was filed, which claimed priority to earlier application filed on 18 December 2002. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 18 June 2005. This international application became abandoned with respect to the United States at midnight on 18 June 2005 for failure to pay the required basic national fee.

On 16 June 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. No executed declaration was submitted at such time.

DISCUSSION

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

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

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being sent 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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21 JUL 2006

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of	:	
MADIGOU, Fabrice	:	
Application No.: 10/583,652	:	DECISION ON PETITION
PCT No.: PCT/FR03/03791	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 18 December 2003	:	
Priority Date: 18 December 2002	:	
Attorney Docket No.: 15675P614	:	
For: GAME SYSTEM WITH ENHANCED CONTROL FOR MOVING DISPLAYED VIRTUAL OBJECTS	:	

The petition to revive under 37 CFR 1.137(b) filed 16 June 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

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

18 AUG 2006

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard, Suite 700
Los Angeles, CA 90025

In re Application of:	:	
MADGIOU, Fabrice	:	DECISION ON PETITION
U.S. Application No.: 10/583,654	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/FR2003/003790	:	
Int'l Filing Date: 18 December 2003	:	
Priority Date: 18 December 2002	:	
Attorney Docket No.: 15675P616	:	
For: USER INTERFACE DEVICE FOR	:	
ELECTRONIC GAME USING CARDS	:	

The petition to revive under 37 CFR 1.137(b) filed 16 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Thomas Frenz	: DECISION ON REQUEST FOR
Patent Number	: 7594496	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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26694
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of FORSLUND, Karl-Erik U.S. Application No.: 10/583,665 PCT No.: PCT/SE2004/002004 Int. Filing Date: 22 December 2004 Priority Date: 22 December 2003 Attorney Docket No.: 43315-230172 For: A WRIST UNIT TO A ROBOT ARM	**DECISION ON PAPERS FILED UNDER 37 CFR 1.42**

This is a decision on the declaration filed on 21 June 2006 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 21 June 2006, applicant filed the above-captioned national stage application of PCT/SE2004/002004 which was accompanied by, *inter alia*, a declaration signed by the legal representative of Karl-Erik Forslund.

DISCUSSION

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

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

The citizenship, residence and address of the deceased inventor are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). Moreover, the citizenship, residence and address of the legal representative are also recorded on the declaration satisfying 37 CFR 1.497(b)(2) .

Therefore, the declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicant has completed the requirements for acceptance under 35 U.S.C.

10/583,665

371(c). The application has an international filing date of 22 December 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 June 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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JUL 09 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

In re Application of
Joachim LOHR, et al.
Application No. 10/583,671
Filed: November 14, 2006
For: **QUALITY-OF-SERVICE (QOS)-AWARE SCHEDULING FOR UPLINK TRANSMISSION ON DEDICATED CHANNELS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 26, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING, LLC
PO BOX 5312
PRINCETON, NJ 08543-5312

In re Application of	:	
Oliver Le Meur, et al.	:	
Application No. 10/583,673	:	DECISION ON PETITION
Filed: June 19, 2006	:	
Attorney Docket No. PF030182	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 2009.

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

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received October 20, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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1 6 DEC 2008

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

In re Application of	:	
PATEL, et al.	:	
PCT No.: PCT/GB04/05392	:	DECISION ON PETITION
Application No.: 10/583,677	:	
Int. Filing Date: 20 December 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2003	:	
Atty. Docket No.: 29610/CDT499	:	
For: OPTICAL DEVICE COMPRISING A CHANGE	:	
TRANSPORT LAYER OF INSOLUBLE	:	
ORGANIC...FOR THE PRODUCTION THEREOF:		

This decision is in response to applicant's petition under 37 C.F.R. § 1.47 filed 15 October 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 December 2004, applicant filed international application PCT/GB04/05392 which claimed priority to an earlier application filed 19 December 2003. A copy of the international application was communicated from the International Bureau (IB) to the United States on 30 June 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 19 June 2006.

On 19 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Application Data Sheet and a preliminary amendment.

On 02 September 2008, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 15 October 2008, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of inventor Mark Leadbeater.

DISCUSSION

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

CONCLUSION

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

The application has an international filing date of 20 December 2004 under 35 U.S.C. 363, and will be given a date of **15 October 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

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16 DEC 2008

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Mr. Mark Leadbeater
Rookery Farm
Depden, IP29 4BU
UNITED KINGDOM

In re Application of
PATEL, et al.
PCT No.: PCT/GB04/05392
Application No.: 10/583,677
Int. Filing Date: 20 December 2004
Priority Date: 19 December 2003
Atty. Docket No.: 29610/CDT499
For: OPTICAL DEVICE COMPRISING A CHANGE TRANSPORT LAYER OF INSOLUBLE ORGANIC...FOR THE PRODUCTION THEREOF

Dear Mr. Leadbeater:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Andrew M. Lawrence
Marshall, Gerstein & Borun, LLP
233 S. Wacker Drive, Suite 6300
Chicago, Illinois 60606-6357
United States of America

30 AUG 2006

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Philip E. Hansen
Heslin Rothenberg Farley & Messiti P.C.
5 Columbia Circle
Albany, New York 12203

In re Application of	DECISION ON
Benicewicz et al	08/31/2006 SBASHEIR 00000006 081935 10583681
Application No.: 10/583,681	01 FC:2617 65.00 DA
PCT No.: PCT/US2004/016718	
Int. Filing Date: 27 May 2004	PETITION UNDER
Priority Date: 30 May 2003	
Attorney's Docket No.: 0094-065A	
For: LOW ODOR CHAIN TRANSFER AGENTS FOR CONTROLLED RADICAL POLYMERIZATION	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 19 June 2006. The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the declaration) has been charged to Deposit Account No.: 08-1935 as authorized in the transmitted letter submitted on 19 June 2006.

BACKGROUND

On 27 May 2004, this international application was filed, which claimed priority to earlier application filed on 30 May 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 30 November 2005. This international application became abandoned with respect to the United States at midnight on 30 November 2005 for failure to pay the required basic national fee.

On 19 June 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, the petition fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being sent to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **19 June 2006.**

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

0 4 SEP 2008

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	
CLARK, Paul, T., et al.	
U.S. Application No.: 10/583,684	DECISION ON REQUEST UNDER
PCT No.: PCT/US2004/042743	37 CFR 1.497(d)
International Filing Date: 20 December 2004	
Priority Date: 19 December 2003	
Attorney's Docket No.: 07588/020002	
For: USE OF HUMAN CORD BLOOD-DERIVED PLURIPOTENT CELLS FOR THE TREATMENT FO DISEASE	

This decision is issued in response to the "Petition To Correct Inventorship Under 37 CFR 1.497(d)" filed 02 November 2006. Applicants have paid the required $130 processing fee.

BACKGROUND

On 20 December 2004, applicants filed international application PCT/US2004/042743. The application claimed a priority date of 19 December 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., 19 June 2006. The published international application identified three applicant/inventors for the U.S.: Paul T. CLARK, Marc D. BEER, and Christoph M. ADAMS.

On 19 June 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 Application Data Sheet (ADS), and an unexecuted declaration. The ADS and unexecuted declaration named the same three inventors as listed on the international application.

On 02 November 2006, applicants filed the "Petition To Correct Inventorship Under 37 CFR 1.497(d)" considered herein, The petition requests that Christoph M. ADAMS be removed as an inventor of record and that Morey KRAUS be added as an inventor of record. The petition was accompanied by, among other materials, a supplemental ADS and an executed declaration that identified the inventors as Morey KRAUS, Marc D. BEER, and Paul T. CLARK.

DISCUSSION

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

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicants have now filed an executed declaration that names an inventive entity different than that set forth in the international application (specifically, Morey KRAUS has been added as an additional inventor, and Christoph M. ADAMS has been removed). Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The "Petition To Correct Inventorship Under 37 CFR 1.497(d)" filed by applicants includes the required statements of non-deceptive intent from the persons being added and removed as inventors, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. However, applicants have not submitted the written consent of assignee Viacell, Inc. to the requested change in inventorship. Requirement (C) is therefore not satisfied.[1]

Based on the above, applicants have failed to submit all the requirements of a grantable request under 37 CFR 1.497(d). Accordingly, the request to add Morey KRAUS as an additional inventor of record and to delete inventor Christoph M. ADAMS, is appropriately dismissed.

CONCLUSION

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

The inventorship of record herein remains that set forth in the international application, that is, Paul T. CLARK, Marc D. BEER, and Christoph M. ADAMS.

The declaration filed 02 November 2006, which includes additional inventor Morey KRAUS and does not include Christoph M. ADAMS, is defective on the present record 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 Petition Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable petition, as

[1] It is noted that the assignee's consent must be submitted in compliance with 37 CFR 3.73(b).

discussed above and in the MPEP, that is, the written consent of the assignee to the proposed change of inventorship in the form required by 37 CFR 3.73(b).

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

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

Richard M. Ross
Attorney Advisor
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Telephone: (571) 272-3296
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2 4 FEB 2009

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CLARK & ELBING LLP
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BOSTON MA 02110

In re Application of: CLARK, Paul, T., et al. U.S. Application No.: 10/583,684 PCT No.: PCT/US2004/042743 International Filing Date: 20 December 2004 Priority Date: 19 December 2003 Attorney's Docket No.: 07588/020002 For: USE OF HUMAN CORD BLOOD-DERIVED PLURIPOTENT CELLS FOR THE TREATMENT OF DISEASE	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Renewed Request Under 37 CFR 1.497(d)" filed 04 December 2008. Applicants have previously submitted the required processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 04 September 2008. That decision dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, applicants had failed to provide the consent of the assignee to the requested change in inventorship.

On 04 December 2008, applicants filed the "Renewed Request Under 37 CFR 1.497(d)" considered herein.

DISCUSSION

The renewed petition includes a statement of consent to the change of inventorship executed on behalf of the assignee Viacell, Inc. (Viacell). The consent was provided in the form required under 37 CFR 3.73(b). These materials satisfy the final requirement for a grantable request to correct inventorship under 37 CFR 1.497(d). The requested addition of Morey KRAUS as an additional inventor, and the removal of Christoph M. ADAMS, is therefore appropriately granted.

Based on the above correction, the declaration filed 02 November 2006 is now acceptable in compliance with 37 CFR 1.497(d).

CONCLUSION

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

The inventorship of record herein is corrected to add Morey KRAUS as an additional inventor of record, and to remove Christoph M. ADAMS.

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 02 November 2006.

Richard M. Ross
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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	: Hyung-Jun Kim	: DECISION ON REQUEST FOR
Patent Number	: 7654223	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **611** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 WEBB LAW FIRM, P.C.
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PITTSBURGH, PA 15219

Mail Date: 05/18/2010

Applicant : Hyung-Jun Kim
Patent Number : 7654223
Issue Date : 02/02/2010
Application No : 10/583,688
Filed : 06/20/2006

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

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

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

The patent term adjustment has been determined to be **710** 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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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Jean-Marie Musslin	: DECISION ON REQUEST FOR
Patent Number	: 7645391	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **18** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 3 DEC 2007

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P.O. Box 1450
Alexandria, VA 22313-1450
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HUTCHISON LAW GROUP PLLC
PO BOX 31686
RALEIGH NC 27612

In re Application of	:	
KORDES, Markus et al.	:	
U.S. Application No.: 10/583,710	:	
PCT No.: PCT/EP2004/014623	:	
International Filing Date: 22 December 2004	:	DECISION
Priority Date: 23 December 2003	:	
Attorney's Docket No.: BASF.10158WOUS	:	
For: 1-(AZOLIN-2-YL) AMINO ...	:	
ARACHNIDS AND NEMATODES	:	

This decision is in response to applicant's petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 03 October 2007.

BACKGROUND

On 22 December 2004, applicant filed international application PCT/EP2004/014623, which claimed a priority date of 23 December 2003 A copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB") on 14 July 2005. The deadline for entry into the national stage in the US was 23 June 2006.

On 20 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a declaration of the inventors and an express request to commence national phase examination procedures.

On 22 March 2007, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 20 June 2006 and a date for all 35 USC 371 requirements of 23 June 2006.

On 03 October 2007, applicant filed this petition to correct the Notice of Acceptance.

DISCUSSION

The Notification of Acceptance mailed 22 March 2007, indicated that all 35 USC 371 requirements were satisfied on 23 June 2006, the expiration of 30 months from the priority date. However, applicant filed an express request to commence national stage examination procedures on 20 June 2006. As such, 20 June 2006 should be the date for all 35 USC 371 requirements. MPEP 1893.03(b).

CONCLUSION

For the reasons discussed above, the Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 22 March 2007 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification of Acceptance (Form PCT/DO/EO/903). The application has a date of 20 June 2006 for all 35 USC 371 requirements.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

Mail Date: 04/21/2010

Applicant	: Markus Kordes	: DECISION ON REQUEST FOR
Patent Number	: 7655600	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,710	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 4 NOV 2008

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

In re Application of:	:	
FUKUDA, Masanobu, et al.	:	DECISION ON REQUEST TO
U.S. Application No.: 10/583,714	:	CORRECT INVENTOR'S NAME
PCT No.: PCT/JP2003/016814	:	
International Filing Date: 25 December 2003	:	
Priority Date: None claimed	:	
Atty Docket No.: 80357(47762)	:	
For: INK AND LAMINATE SHEET	:	

This decision is issued in response to the "Notification Of Spelling Correction Of Inventor's Name" filed 03 November 2008, treated herein as a request to correct a spelling error in one of the inventor's names. No petition fee is required.

BACKGROUND

On 25 December 2003, applicants filed international application PCT/JP2003/016814. The international application did not claim an earlier priority date, and it designated the United States. On 14 July 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 international filing date, i.e., 25 June 2006. The published international application identified the second inventor as Tatsuya KOYAMA.

On 20 June 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage for international application PCT/JP2003/016814 accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and an executed declaration. The declaration identified the second inventor as Tatsuya KOUYAMA.

On 02 September 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required. The Notification indicated that the declaration filed 20 June 2006 was defective based on the inconsistency in the second inventor's name.

On 03 November 2008, applicants filed a response to the Notification Of Missing Requirements that included the "Notification Of Spelling Correction Of Inventor's Name" considered herein. The submission requests correction of the spelling of the second inventor's

name to KOUYAMA, as set forth in the declaration filed 20 June 2006, and acceptance of the declaration based on such correction.

DISCUSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following (emphasis added):

> Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). **However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.**

Section 605.04(b) of the MPEP states the following (emphasis added):

> 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.

Based on the present submission, the discrepancy between the second inventor's name as listed in the international application (KOYAMA) and in the filed declaration (KOUYAMA) is accepted as resulting from a "typographical or transliteration error" which may be corrected without the need of a petition. Accordingly, the name of record for the second inventor will be corrected to Tatsuya KOUYAMA, as requested.

As noted in the MPEP, it is suggested that applicants submit an Application Data Sheet (ADS) containing the correct spelling of the inventors' names, so as to insure that any patent issued herein will reflect the correct spelling of the inventors' names.

CONCLUSION

Applicants' request to correct the spelling of the second inventor's name is **GRANTED**. The name of record for the second inventor is accepted as Tasuya KOUYAMA, as set forth in the declaration filed 20 June 2006.

Based on the above correction, the declaration filed 20 June 2006 is no longer defective under 37 CFR 1.497. In addition, because such declaration was filed prior to the expiration of thirty months from the priority date, applicants are not required to submit the surcharge set forth in the Notification Of Missing Requirements.

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 20 June 2006.

Richard M. Ross
Attorney Advisor
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/18/2010

Applicant	: Mato Nagasawa	: DECISION ON REQUEST FOR
Patent Number	: 7632424	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/583,722	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

MAIL

JUL 18 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Joachim LOHR, et al.
Application No. 10/583,736
Filed: November 14, 2006
For: **SCHEDULING MODE DEPENDENT DATA TRANSMISSIONS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 26, 2006, under Manual of Patent Examination Procedure §708.02, VIII, requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

0 3 JUL 2008

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

In re Application of	:	
ITO et al.	:	
Application No.: 10/583,739	:	NOTIFICATION
PCT No.: PCT/2005/018650 [sic]	:	
Int. Filing Date: 07 October 2005	:	
Priority Date: 22 October 2004	:	
Attorney's Docket No.: 2006_0987A	:	
For: COMMUNICATION DEVICE	:	

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

On 20 June 2006, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter. The Transmittal Letter indicates the international application number as PCT/2005/018650, which is not a valid international application number.

Applicant is required to file a reply to this communication correcting the above-stated error. A proper reply would include a petition under 37 CFR 1.182, including the petition fee set forth in 37 CFR 1.17(h), to correct the Transmittal Letter (The petition should set forth the specific circumstances as to how and when the error was made and should set forth that the mistake was an inadvertent error without deceptive intent).

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

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office

of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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

2 9 JUL 2008

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2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of	:	
ITO et al.	:	
Application No.: 10/583,739	:	NOTIFICATION
PCT No.: PCT/JP2005/018650	:	
Int. Filing Date: 07 October 2005	:	
Priority Date: 22 October 2004	:	
Attorney's Docket No.: 2006_0987A	:	
For: COMMUNICATION DEVICE	:	

The NOTIFICATION mailed 03 July 2008 is hereby VACATED for the reasons set forth below.

On 20 June 2006, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter. The Transmittal Letter indicates the international application number as PCT/2005/018650, which is not a valid international application number.

On 03 July 2008, a NOTIFICATION was mailed indicating that a petition under 37 CFR 1.182 was required in order to correct the Transmittal Letter.

Upon further review and consideration, it has been determined that a petition under 37 CFR 1.182 is not required. The invalid international application number appears only in the Transmittal Letter. The declaration of inventors and the documents submitted with the 371 application all show the international application number as PCT/JP2005/018650. Additionally, the instant application was initially processed by the pre-exam processing area as the national stage of PCT/JP2005/018650.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including processing as the national stage of PCT/JP2005/018650.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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OFFICE OF PETITIONS

Patent Group 2N
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114

In re Patent No. 5,676,781	:	
Issue Date: May 26, 2009	:	
Application No. 10/583,753	:	NOTICE
Filed: September 18, 2006	:	
Attorney Docket No. 975902600154	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 20, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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April 13, 2010

Steven R. Funk
Hollingsworth & Funk, LLC
8500 Normandale Lake Blvd.
Suite 320
Minneapolis, MN 55437

Patent No: 7,664,141 B2
Application No: 10/583,754
Applicant: Zhao Zhuyan
Issued: February 16, 2010
Title: **METHOD AND DEVICE FOR DECREASING A TRANSMISSION DELAY IN A MULTI-CHANNEL DATA TRANSMISSION**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Inspection of the file of the application for the patent reveals that title page column 2, at line 3, in the patent is printed in accordance with the record in the Patent and Trademark Office., as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing, your request in this matter is hereby **denied.**

However, further consideration will be given to this matter, upon receipt of a request for certification of correction under the provision of 1.323, accompanied by the appropriate fee which is presently $100.

Virginia Tolbert
For Mary Digg, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

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MAR 16 2007

Martin D. Moynihan
PRTSI
P.O.Box 16446
Arlington VA 22215

In re Application of	:
Sobhi Sauod et al	:
Serial No.: 10/583,759	: PETITION DECISION
Filed: June 21, 2006	:
Attorney Docket No.: 32102	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 21, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. The amendment to the specification should be presented again as a separate amendment to the specification, not as part of the petition. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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Alexandria, VA 22313-1450
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07 NOV 2006

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112

In re Application of	:	
HASHIMOTO, Masashi et al.	:	
Application No.: 10/583,770	:	DECISION ON
PCT No.: PCT/JP05/01893	:	
Int. Filing Date: 28 September 2005	:	PETITION
Priority Date: 29 September 2004	:	
Attorney Docket No.: 03500.119746	:	UNDER 37 CFR 1.182
For: COMPOUND AND ORGANIC	:	
ELECTROLUMINESCENT DEVICE	:	
USING SAME	:	

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.182," filed with the United States Patent and Trademark Office on 08 August 2006.

BACKGROUND

On 28 September 2005, applicant filed international application PCT/JP05/01893, claiming a priority date of 29 September 2004. A copy of the international application was transmitted to the Office by the International Bureau on 06 April 2006. The deadline for entry into the national stage in the United States is midnight 29 March 2007.

On 21 June 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee and a declaration of the inventors.

On 08 August 2006, applicant submitted a petition under 37 CFR 1.182.

DISCUSSION

The declaration is executed by Minako Nakasu. The international application listed Minako Kurokawa.

Applicant has supplied a statement signed by Minako Nakasu stating that Minako Nakasu is the inventor's name subsequent to her marriage. This is an adequate explanation.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch Division of PCT Operations for further processing. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 June 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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26 JUL 2006

Pfizer Inc.
Patent Department, MS8260-1611
Eastern Point Road
Groton, CT 06340

In re Application of BOYS et al. Application No.: 10/583,782 PCT No.: PCT/IB04/03238 Int. Filing Date: 04 October 2004 Priority Date: 14 October 2003 Attorney Docket No.: PC28082A For: SUBSTITUTED PYRAZINONE COMPOUNDS FOR THE TREATMENT OF INFLAMMATION	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 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

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

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1 2 AUG 2009

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THELEN REID BROWN RAYSMAN & STEINER LLP
Michael A. Whittaker
P. O. Box 640640
San Jose, CA 95164-0640

In re Application of	:	PETITION
SEEGER, Werner et al.	:	
Application No.: 10/583,785	:	DECISION
PCT No.: PCT/EP2003/014542	:	
Int. Filing Date: 18 December 2003	:	UNDER
For: NOVEL CHIMERIC PLASMINOGEN	:	
ACTIVATORS AND THEIR	:	37 CFR 1.137(b)
PHARMACEUTICAL USE	:	
	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R.1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 31 July 2009.

BACKGROUND

On 18 December 2003, applicant submitted international application No. PCT/EP2003/014542. 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. 19 June 2006.

On 19 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the specification, claims and the basic national fee.

On 22 May 2007, the DO/EO/US mailed "Notification To Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosure" (Form PCT/DO/EO/922) requesting a corrected computer readable form of the sequence listing and a statement that the contents of the sequence listing on the computer readable form is identical to the written sequence listing.

On 16 July 2007, applicant filed a response with a substitute sequence listing.

On 04 December 2007, the DO/EO/US mailed "Notification of Defective Response" (Form PCT/DO/EO/916) indicating the substitute sequence listing is defective.

On 07 January 2008, applicant responded to the Notification with another substitute sequence listing.

On 17 June 2009, "Notification of Abandonment" was mailed to the applicant indicating the sequence listing did not comply with the requirement.

On 31 July 2009, applicant filed the present petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have provided the required reply. The sequence listing has been entered.

Regarding item (2), the $810 petition fee has been paid.

Regarding item (3), the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

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

CONCLUSION

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

Application No.: 10/583,785

This application is being referred to the National Stage Processing (DO/EO/US) for further processing in accordance with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 March 2007.

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Leonard Smith
Supervisory Legal Examiner
Office of PCT Legal Administration

25 JUL 2006

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Klaus Stoffel
Wolff & Samson, PC
One Boland Drive
West Orange, NJ 07052

In re Application of WENZELBURGER	:	
U.S. Application No.: 10/583,798	:	
PCT Application No.: PCT/DE04/01547	:	DECISION
Int. Filing Date: 16 July 2004	:	
Priority Date Claimed: 18 July 2003	:	
Attorney Docket No.: 11601-33	:	
For: BORING HEAD	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 June 2006.

BACKGROUND

On 16 July 2004, applicant filed international application PCT/DE04/01547, which claimed priority of an earlier Germany application filed 18 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 18 January 2006.

International application PCT/DE04/01547 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 June 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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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Karim Essemiani	: DECISION ON REQUEST FOR
Patent Number	: 7648638	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **681** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Patent No. : 7667042
Ser. No. : 10583805
Inventor(s) : Muthukumaran Natarajan et al.
Issued : 2-23-2010
Title : Novel Stable Polymorphic Forms Of An Anticonvulsant
Docket No. : 2867.002US1

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)**756-1575** or (703) 756-1814

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

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

Mail Date: 05/24/2010

Applicant	: Muthukumaran Natarajan	: DECISION ON REQUEST FOR
Patent Number	: 7667042	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/583,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **443** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

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OFFICE OF PETITIONS

In re Application of	:	
BAYER, Uwe et al.	:	
Application No. 10/583,806	:	DECISION ON PETITION
Filed: June 22, 2006	:	TO WITHDRAW
Attorney Docket No. **4502**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2007.

The request is **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, (this firm no longer represents applicant), do not meet any the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **NORTH AMERICA S.A.R.L.**
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON, DE 19808

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WIGGIN AND DANA, LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER
P.O. BOX 1832
NEW HAVEN, CT 06508-1832

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Applicant: Perrier
Appl. No.: 10/583,809
International Filing Date: December 21, 2004
Title: POLYMERISATION USING CHAIN TRANSFER AGENTS
Attorney Docket No.: 102889-202
Pub. No.: US 2007/0299221 A1
Pub. Date: December 27, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 27, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in the specification and in claim 4.

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 errors noted by requestor in the specification are not material Office errors under 37 CFR 1.221. The text was not printed correctly due to the quality of the text. The errors noted by requestor in this published application are due to the quality of the text, as the letters are very small and the double bond in N=N is very faint and small. The quality of some of the text is poor, as it is small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52. Additionally, a member of the public will be able to understand the context by the surrounding information in the specification.

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

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. The text with respect to the superscripts and subscripts are very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Changyin Sun	: DECISION ON REQUEST FOR
Patent Number	: 7664171	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **848** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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In re Application of Bondy et al. :
Application No. 10/583,814 :
Filing Date: June 4, 2007 :
Attorney Docket No. 50304/128001 :

On Application For
Patent Term Adjustment

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705" filed October 1, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is four hundred and forty-one (441) days, not one hundred sixty (160) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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 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 § 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, an applicant 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[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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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Mail Date: 04/20/2010

Applicant	: Steven S. Bondy	: DECISION ON REQUEST FOR
Patent Number	: 7648998	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HEDMAN & COSTIGAN
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2646

In re Application of
Daniel A. Montanari, et al.
Application No. 10/583,816
Filed: January 12, 2007
Attorney Docket No. 163-709

ON PETITION

This is a decision in response to the petition, filed March 8, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2009. On March 8, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 9, 2010.

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 $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1654 for appropriate action by the Examiner in the normal course of business on the response filed March 8, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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APR 11 2008
OFFICE OF PETITIONS

Applicant: Klaveness et al.
Appl. No.: 10/583,829
International Filing Date: December 23, 2004
Title: MODULATORS OF PERIPHERAL 5-HT RECEPTORS
Attorney Docket No.: PLOUG19.001APC
Pub. No.: US 2007/0254874-A1
Pub. Date: November 1, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 20, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because the title of the invention, "Modulators of Peripheral 5-HT Receptors," is misprinted as "Modulators of Preripheral 5-HT Receptors" 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 (*e.g.*, error in the claims, serious error in a portion of the written description or drawings that is necessary to support the claims). [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 error in the title of the invention. 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.

[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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ATTN: PATENT INTAKE CUSTOMER NO. 35437
ONE FINANCIAL CENTER
BOSTON MA 02111

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In re Application of	:	
MACALUSO, Michael J. et al.	:	
Application No. 10/583,830	:	DECISION ON PETITION
Filed: June 27, 2007	:	TO WITHDRAW
Attorney Docket No. **34585-515 NATL**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 27, 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 Peter Snell on behalf of all attorneys of record who are associated with customer No. 35437. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHAEL J. MACALUSO**
78 FOREST GLEN DRIVE
HIGHLAND, NJ 08904

cc: **ARKADOS, INC. C/O OLEG LOGVINOV**
220 OLD NEW BRUNSWICK ROAD
SUITE 202
PISCATAWAY, NJ 08854

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
321 N. CLARK STREET
SUITE 2800
CHICAGO, IL 60610

In re Application of	:	
Jacobsen et al.	:	DECISION ON PETITION
Application No. 10/583,838	:	TO WITHDRAW
Filed: October 3, 2008	:	FROM RECORD
Attorney Docket No. P3593US00	:	

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 22, 2009.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 27433 was revoked by the assignee of the patent application on November 9, 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 properly notified.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DITTHAVONG MORI & STEINER, P.C.
918 PRINCE STREET
ALEXANDRIA VA 22314

United States Patent and Trademark Office

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10 JAN 2007

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

In re Application of	:	
Kakuchi et al.	:	
Application No.: 10/583,856	:	
PCT No.: PCT/JP04/19512	:	
Int. Filing Date: 27 December 2004	:	DECISION
Priority Date: 25 December 2003	:	
Attorney Docket No.: 358275.30009	:	
For: Hydroxamic Acid Derivative And Age Generation Inhibitor Containing The Derivative	:	

This is with regard to the petition under 37 CFR 1.182 filed on 03 October 2006.

BACKGROUND

This international application was filed on 27 December 2004, claimed an earliest priority date of 25 December 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 11 August 2005. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 26 June 2006 (since 25 June 2006 was a Sunday). Applicants filed *inter alia* the basic national fee on 21 June 2006.

DISCUSSION

The instant petition seeks "to substitute the attached corrected Form PTO 1390" because "there were two errors on the first page of Form PTO 1390 in the original submission: (1) the international application number was incorrect on the first page of the form; and (2) the title of the application was incorrect on the first page of the form."

Inspection of the Transmittal Letter (Form PTO-1390) filed on 21 June 2006 reveals that it refers to international application number PCT/JP04/019582, and lists a title of "Fungus Having Activity Of Controlling Disease Of Gramineous Plant, Controlling Agent Using The Same, Method Of Controlling And Biological Material." It also refers to "a copy of the published PCT application under International Publication No. WO2005/073180A1;" said publication corresponds to international application no. PCT/JP04/19512. As such, the papers filed on 21 June 2006 did not uniquely refer to the instant international application. However, upon consideration of all of the evidence of record, including the instant petition and fee under 37 CFR 1.182, it would be appropriate to accept the corrected Transmittal Letter (Form PTO 1390) proffered by petitioner, thereby resolving the discrepancies noted above.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), an English translation of the international application, the surcharge under 37 CFR 1.492(h), and the processing fee under 37 CFR 1.492(i). The electronic records of the USPTO will also be updated to reflect the data shown on the corrected Transmittal Letter filed on 03 October 2006.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Richard Anthony Borman, et al.	:	
Application No. 10/583,896	:	DECISION ON PETITION
Filed: June 22, 2006	:	TO WITHDRAW
Attorney Docket No. 620-442	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on October 23, 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: BRINKS, HOFER, GILSON & LIONE/ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR, MI 48108

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BRINKS HOFER GILSON & LIONE/ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR, MI 48104

In re Application of	:	
Richard Anthony Borman, et al.	:	
Application No. 10/583,896	:	DECISION ON PETITION
Filed: June 22, 2006	:	TO WITHDRAW
Attorney Docket No. 13849-6	:	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 July 29, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Brinks, Hofer, Gilson & Lione/Ann Abor has been revoked by the assignee of the patent application on September 4, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: HONIGMAN, MILLER, SCHWARTZ & COHN, LLP
444 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007-3714

19 JUL 2006

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

In re Application of FAUCHER	:	
U.S. Application No.: 10/583,918	:	
PCT Application No.: PCT/FR04/02822	:	
Int. Filing Date: 03 November 2004	:	DECISION
Priority Date Claimed: 03 November 2003	:	
Attorney Docket No.: 0660-1001	:	
For: METHOD OF COMMUNICATING FROM	:	
A MOBILE DEVICE	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 21 June 2006.

BACKGROUND

On 03 November 2004, applicant filed international application PCT/FR04/02822, which claimed priority of an earlier France application filed 03 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 19 May 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 May 2006.

International application PCT/FR04/02822 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 June 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 and a translation of the international application into English must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

In re Application of	:	
Jozsef VACITY	:	
Application No. 10/583,919	:	DECISION ON PETITION
Filed: September 27, 2007	:	TO WITHDRAW
Attorney Docket No. 9014-1005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2010.

The request is **NOT APPROVED.**

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 no correspondence address for future communications from the Office has been provided.

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

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

In re Application of	:	
Jozsef VACITY	:	
Application No. 10/583,919	:	DECISION ON PETITION
Filed: September 27, 2007	:	TO WITHDRAW
Attorney Docket No. 9014-1005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 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. 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 Andrew J. Patch on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified by the applicant.

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JOZSEF VACITY
H-6500 BAJA
ALKOTMANY U.9
HUNGARY

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
10/583,919	09/27/2007	Jozsef Vacity	9014-1005

CONFIRMATION NO. 5076

POWER OF ATTORNEY NOTICE

466
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

OC000000041125323

Date Mailed: 04/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2010.

- 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.

/dcgoodwyn/

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

17 JUL 2007

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

In re Application of BADKAR et al. Application No.: 10/583,923 PCT No.: PCT/IB04/04159 Int. Filing: 13 December 2004 Priority Date: 23 December 2003 Attorney Docket No.: PC027698A For: STABLE GROWTH HORMONE LIQUID FORMULATION	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 14 May 2007, to accept the application without the signature of joint inventor, Manpreet Wadhwa.

BACKGROUND

On 20 June 2006, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 26 January 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 14 May 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Manpreet Wadhwa alleging that Mr. Wadhwa refuses to sign the application. The response to the 905 was filed two months after the two month time period expired and is construed as a request for a two month extension of time, which is required. Per applicant's authorization, the two month extension of time fee of $450 will be charged to applicant's deposit account. The two month extension of time is Granted.

DISCUSSION

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

The petition included the requisite petition fee of $200, satisfying Item (1). Item (3) is

satisfied because the last known address of non-signing inventor was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner alleges that Ms. Wadhwa refuses to sign the application. In support of this position, Petitioner provided an email communication dated April 6, 2007 from Vick (Manpreet) Wadhwa to S. Christopher Bauer (attorney of record) referring to "Pfizer Legal Dcouments for PC027698". Mr Wadhwa refuses to sign the assignment document. There is no refusal to sign the application papers or the declaration.

There is no evidence that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Wadhwa. The statement does not indicate that a complete copy of the application, claims and declaration were sent to the inventor for his signature. What is required is that Mr. Wadhwa be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application and that he refuses to sign the declaration.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> *A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.* A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... *It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever

> a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/583,923 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for his signature and (2) Mr. Wadhwa's refusal to sign, either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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

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

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05 FEB 2008

PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

In re Application of BADKAR et al. Application No.: 10/583,923 PCT No.: PCT/IB04/04159 Int. Filing: 13 December 2004 Priority Date: 23 December 2003 Attorney Docket No.: PC027698A For: STABLE GROWTH HORMONE LIQUID FORMULATION	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 14 December 2007, to accept the application without the signature of joint inventor, Manpreet Wadhwa. The three month extension of time is granted.

BACKGROUND

On 20 June 2006, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 26 January 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 14 May 2007, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Manpreet Wadhwa alleging that Mr. Wadhwa refuses to sign the application.

On 17 July 2007, a decision dismissing the petition was mailed indicating that applicant had failed to demonstrate that Ms. Wadhwa refused to sign the application.

On 14 December 2007, applicant filed the instant renewed petition.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application

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

Applicant previously satisfied Item (1), (3) and (4).

With respect to Item (2) above, Petitioner alleges that Mr. Wadhwa refuses to sign the application. In support of this position, Petitioner previously provided an email communication dated April 6, 2007 from Vick (Manpreet) Wadhwa to S. Christopher Bauer (attorney of record) referring to "Pfizer Legal Dcouments for PC027698".

With the submission of the renewed petition, counsel provided a copy of the correspondence sent to the nonsigning inventor's last known address along with United States Postal Service (USPS) Return Receipt and Track and Confirm Statement indicating delivery to Mr. Wadhwa. The correspondence dated March 23, 2007 indicates that a copy of the application as filed, declaration and assignment was enclosed. The USPS Return Receipt and Track and Confirm Statement indicate that the delivery was made to the addressee on 27 March 2007. This evidence along with Mr. Wadhwa's email dated April 6, 2007 is sufficient evidence to show that Mr. Wadhwa refuses to sign the application papers.

In sum, Petitioner has now satisfied Items (1) - (4) above. Petitioner has satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/583,923 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for her signature and (2) Mr. Wadhwa's refusal to sign, either in writing, these documents.

For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 14 May 2007. The application has an international filing date of 13 December 2004 under 35 U.S.C. 363, and a date of 14 May 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Cynthia M. Kratz

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Michael Rannow
c/o Vacutec GmbH
(bzw. Nero Energy GmbH),
Max-Plack-Str. 11
53577 Neustadt (Wied)-Fernthal
Germany

In re Application of
OSER *et al*
U.S. Application No.: 10/583,925
PCT No.: PCT/EP2004/0053654
Int. Filing Date: 22 December 2004
Priority Date: 22 December 2003
Attorney Docket No.: 5151-19PUS
For: A METHOD OF TRANSFORMING HEAT ENERGY TO MECHANICAL ENERGY IN A LOW-PRESSURE EXPANSION DEVICE

Dear Mr. Rannow:

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

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

James Thomson
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In re Application of
OSER *et al*
U.S. Application No.: 10/583,925
PCT No.: PCT/EP2004/0053654
Int. Filing Date: 22 December 2004
Priority Date: 22 December 2003
Attorney Docket No.: 5151-19PUS
For: A METHOD OF TRANSFORMING HEAT ENERGY TO MECHANICAL ENERGY IN A LOW-PRESSURE EXPANSION DEVICE

DECISION

This decision is in response to applicants' "Petition Under 37 CFR § 1.47(a)" filed 10 August 2007.

BACKGROUND

On 09 April 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 10 August 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; a two-month extension and fee; a declaration signed by one of the two named inventors; a declaration by Erwin Oser; and other documentary evidence (Exhibits A - C).

DISCUSSION

Applicants claim that joint inventor Michael Rannow refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 09 April 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 inventors. All items have been satisfied.

Concerning item (1), the petition fee of $200.00 has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicants' submitted a letter from the nonsigning inventor which constitutes a written refusal to cooperate as contemplated in section 409.03(d) of the MPEP. Moreover, the 37 CFR 1.47(a) applicant has submitted other evidence showing that a complete copy of the application was forwarded to Mr. Rannow and postal receipts indicate that it was received on 03 November 2006. This is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets item (2) above.

With regards to item (3), the last known address of Michael Rannow is listed as:

c/o Vacutec GmbH
(bzw. Nero Energy GmbH),
Max-Plack-Str. 11
53577 Neustadt (Wied)-Fernthal
Germany

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of both inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 December 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 August 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
Attorney Advisor

10/583,925

Office of PCT Legal Administration

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222 E. 41st. Street
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In re Application of	:	
FUNG, et al.	:	
PCT No.: PCT/US04/43501	:	DECISION ON PETITION
Application No.: 10/583,927	:	
Int. Filing Date: 23 December 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 23 December 2003	:	
Atty. Docket No.: 12279-187-999	:	
For: NOVEL ANTI-IL-13 ANTIBODIES AND USES	:	
THEREOF	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 29 September 2008 in the United States Patent and Trademark Office (USPTO). In addition, this decision incorporates applicant's "Supplemental Response to Notification of Defective Response" filed on 17 October 2008.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/US04/43501 which claimed priority to an earlier application filed 23 December 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 23 June 2006.

On 22 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 09 April 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was also directed to file a statement as to the content of the sequence listing and a copy of the sequence listing in computer readable form (CRF). Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 08 June 2007, applicant filed an executed combined declaration and power of attorney and a statement regarding the sequence listing. In addition, applicant provided a statement that a

CRF of the sequence listing was filed in the international phase of the application.

On 21 August 2007, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) advising applicant that the filed declaration did not comply with 37 CFR 1.497(a)-(b) and that there was a discrepancy as to the names of the first and third inventors as they appeared on the published international application and the filed declaration. Applicant was again advised to provide a CRF of the sequence listing. Applicant was afforded one month to respond or any extendable time which remained from the mail date of the Form PCT/DO/EO/905.

On 25 September 2007, applicant filed a response accompanied by a petition for a four-month extension of time. As to the discrepancy in the names of the inventors, applicant provided a statement from counsel that the individuals listed as the first and third inventors on the published international application and the filed declaration were the same people and that the "problem occurred due to their legal names vs. names the scientists go by in the United States."

On 20 December 2007, applicant filed a transmittal for revocation and power of attorney.

On 29 August 2008, applicant was mailed an additional "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) advising applicant that the filed declaration did not comply with 37 CFR 1.497(a)-(b) and that there was a discrepancy as to the names of the first and third inventors as they appeared on the published international application and the filed declaration. Applicant was again advised to provide a CRF of the sequence listing. Applicant was afforded one month to respond or any extendable time which remained from the mail date of the Form PCT/DO/EO/905.

On 29 September 2008, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Changning Yan accompanied by a CRF of the sequence listing and sequence listing statement.

On 17 October 2008, applicant filed a supplemental petition which included a declaration executed by inventor Yan.

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.

As noted above, applicant filed a declaration signed by inventor Yan on 17 October 2008 and therefore the petition is dismissed as moot. However, the declaration filed 29 September

2008 does not comply with 37 CFR 1.497(a)-(b).

Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains five separate signature pages individually executed by the inventors. This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

It is noted that the original declaration filed 08 June 2007 was similarly non-compliant and that applicant's response of 25 September 2007 did not adequately address the defects detailed in the Form PCT/DO/EO/916 mailed 21 August 2007. As the filed declaration has been found to be non-compliant, applicant has not provided a proper and timely response to the Form PCT/DO/EO/916 mailed 29 August 2008 and the application is abandoned as to the United States.

CONCLUSION

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

This application is **ABANDONED** as to the United States National Stage and is being forwarded to the United States Designated /Elected Office for the preparation and mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

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In re Application of	:	
FUNG, et al.	:	
PCT No.: PCT/US04/43501	:	DECISION ON PETITIONS
Application No.: 10/583,927	:	
Int. Filing Date: 23 December 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 23 December 2003	:	
Atty. Docket No.: 12279-187-999	:	and 37 CFR 1.137(b)
For: NOVEL ANTI-IL-13 ANTIBODIES AND USES THEREOF	:	

This decision is in response to applicant's petitions filed 29 January 2009 in the United States Patent and Trademark Office (USPTO) to revive the present U.S. National stage application.

BACKGROUND

On 02 December 2008, applicant was mailed a decision and notification of abandonment.

On 29 January 2009, applicant filed the present petition to revive accompanied by a newly filed declaration of the inventors.

DISCUSSION

A review of the filed declaration finds that it contains the signatures of all six inventors. As such, the petition under 37 CFR 1.47(a) is dismissed as moot.

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

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

A review of the application file reveals that applicant has now provided an executed, compliant declaration of the inventors. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above the petition under 37 CFR 1.47(a) is **DISMISSED as moot** and the petition to revive pursuant to 37 CFR 1.137(b) is **GRANTED**.

The application has an international filing date of 23 December 2004 under 35 U.S.C. 363 and will be given a date of **29 January 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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15 OCT 2007

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In re Application of	:	
ARTS et al.	:	
Application No.: 10/583,932	:	DECISION ON PETITION
PCT No.: PCT/EP04/13865	:	
Int. Filing Date: 06 December 2004	:	
Priority Date: 22 December 2003	:	
Attorney Docket No.: 0034.1002	:	
For: PROCESS AND ARRANGEMENT FOR DETERMINING WATER CONTENT		

This decision is issued in response to applicants' "Reply to Notification of Missing Requirements" filed 30 July 2007 which is being treated as a petition under 37 CFR 1.181. Additionally, this decision is issued in response to applicants' "Status Inquiry" filed 24 September 2007. No petition fee is required.

BACKGROUND

On 06 December 2004, applicants filed international application PCT/EP04/13865 which claimed a priority date of 22 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 22 June 2006.

On 22 June 2006, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 27 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 30 July 2007, applicants filed the present petition which was accompanied, among other things, a copy of the declaration/power of attorney and a post card receipt dated 22 June 2006.

DISCUSSION

Applicants state in the present petition that a declaration/power of attorney was received at the United States Patent and Trademark Office on 22 June 2006. A review of the present application reveals that the declaration/power of attorney is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the applicants, corresponding international application number, title of invention, and attorney docket number. The receipt itemizes, among other things, a declaration and power of attorney. The receipt is stamped "Rec'd OIPE 22 Jun 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 22 June 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

In view of the declaration filed 22 June 2006, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 27 February 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

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In re Application of	:	
Oser et al.	:	
Application No.: 10/583,936	:	DECISION
PCT No.: PCT/EP04/53650	:	
Int. Filing Date: 22 December 2004	:	ON
Priority Date: 22 December 2003	:	
Attorney Docket No.: 5151-18PUS	:	PETITION
For: An Apparatus And Method For Converting Heat Energy To Mechanical Energy	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 11 July 2007.

BACKGROUND

This international application was filed on 22 December 2004, claimed an earlier priority date of 22 December 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 07 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 June 2006. Applicants filed *inter alia* the basic national fee on 22 June 2006.

On 15 March 2007, 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 $200.00 petition fee has been paid.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that joint inventor Michael Rannow allegedly has 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..." signed by Erwin Oser, which references attached documentary evidence and suggests that a copy of the application papers and a declaration were sent to Mr. Rannow. However, inspection of the English translation of the letter to Mr. Rannow, dated 11 (or 2) November 2006, reveals that it does not explicitly identify the application numbers for which documents are attached. Rather, it merely alludes to "the three patent applications that have been filed or amended in the USA." Therefore, it is uncertain whether or not the correspondence sent to Mr. Rannow in November of 2006 in fact included a copy of the instant application papers, and an oath or declaration directed to this specific application. As such, it would not be appropriate at this time to conclude that requirement (2) has been satisfied.

Regarding **requirement (3)**, the petition provides Michael Rannow's last known address. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the declaration of inventorship accompanying the instant petition 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(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.

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0 7 JAN 2008

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In re Application of	:	
Oser et al.	:	
Application No.: 10/583,936	:	DECISION
PCT No.: PCT/EP04/53650	:	
Int. Filing Date: 22 December 2004	:	ON
Priority Date: 22 December 2003	:	
Attorney Docket No.: 5151-18PUS	:	PETITION
For: An Apparatus And Method For Converting	:	
Heat Energy To Mechanical Energy	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 03 December 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.47(a) filed on 11 July 2007 was dismissed, without prejudice, because

> Petitioner has provided a "Declaration..." signed by Erwin Oser, which references attached documentary evidence and suggests that a copy of the application papers and a declaration were sent to Mr. Rannow. However, inspection of the English translation of the letter to Mr. Rannow, dated 11 (or 2) November 2006, reveals that it does not explicitly identify the application numbers for which documents are attached. Rather, it merely alludes to "the three patent applications that have been filed or amended in the USA." Therefore, it is uncertain whether or not the correspondence sent to Mr. Rannow in November of 2006 in fact included a copy of the instant application papers, and an oath or declaration directed to this specific application. As such, it would not be appropriate at this time to conclude that requirement (2) has been satisfied.

Upon review of the instant renewed petition, petitioner is found to have satisfied requirement (2). Therefore, all of the requirements of 37 CFR 1.47(a) have now been satisfied.

DECISION

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

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

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

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 **11 July 2007**.

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

0 7 JAN 2008

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Alexandria, VA 22313-1450
www.uspto.gov

Michael Rannow
c/o Vacutec GmbH (bzw. Nero Energy GmbH)
Max-Planck-Strasse 11
53577 Neustadt (Wied) - Fernthal
GERMANY

In re Application of
Oser et al.
Application No.: 10/583,936
PCT No.: PCT/EP04/53650
Int. Filing Date: 22 December 2004
Priority Date: 22 December 2003
Attorney Docket No.: 5151-18PUS
For: An Apparatus And Method For Converting Heat Energy To Mechanical Energy

Dear Mr. Rannow:

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
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COHEN, PONTANI, LIEBERMAN & PAVANE
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SUITE 1210
NEW YORK, NY 10176

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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 (Michael RANNOW) 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/EP2004/053650 and was filed on December 22, 2004 in the names of Erwin OSER and Michael RANNOW for the invention entitled DEVICE AND METHOD FOR CONVERTING HEAT ENERGY INTO MECHANICAL ENERGY. The national stage application number is 10/583,936 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of July 11, 2007.

15 AUG 2006

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TROJAN LAW OFFICES
9250 Wilshire Blvd.
Suite 325
Beverly Hills, CA 90212

In re Application of	:	
KASHOJI *et al*	:	
U.S. Application No.: 10/583,955	:	
PCT No.: PCT/JP2003/011963	:	**DECISION ON**
Int. Filing Date: 18 September 2003	:	**PETITION FOR REVIVAL**
Priority Date: 29 August 2003	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 05-09-2844	:	
For: BATTERY TYPE LIGHTER	:	

Applicants' petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 15 June 2006 is hereby **GRANTED** as follows:

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

A signed declaration in compliance with 37 CFR 1.497(a) & (b) was submitted with the national stage papers.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 September 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 June 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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BEVERLY HILLS CA 90212

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of
Yoshihiro Kashoji, et al.
Application No. 10/583,955
Filed: June 15, 2006
Attorney Docket No. 06-05-2844

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 3, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 3, 2009. Accordingly, the date of abandonment of this application is December 4, 2009. The Notice of Abandonment was mailed December 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

02 AUG 2006

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P.O. Box 1450
Alexandria, VA 22313-1450

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

In re Application of:	:	
BONSMA, Erwin, Rein, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/583,964	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/GB2004/005212	:	
Int'l Filing Date: 10 December 2004	:	
Priority Date: 12 December 2003	:	
Attorney Docket No.: 36-1993	:	
For: DISTRIBUTED COMPUTER SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 21 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statements in the petition are construed as the statement required by 37 CFR 1.137(b)(3), that is, 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." Based on this interpretation, 37 CFR 1.137(b)(3) is considered satisfied. Applicants must notify this Office immediately if this is not a correct interpretation of such statements.

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

The 21 June 2006 submission included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-1140 will be charged the surcharge for filing this 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 21 June 2006.

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

0 5 DEC 2006

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls, Church, VA 22040-8050

In re Application of	:	
YEE *et al*	:	
U.S. Application No.: 10/583,965	:	
PCT No.: PCT/KR2004/003425	:	
Int. Filing Date: 23 December 2004	:	**DECISION**
Priority Date: 23 December 2003	:	
Attorney's Docket No.: 0630-2784PUS1	:	
For: ASPHERICAL MICROLENS ARRAYS	:	
AND FABRICATION METHOD	:	
THEREOF AND APPLICATIONS	:	
USING THE SAME	:	

This is a decision on the request to add an inventors in the above-captioned application pursuant to 37 CFR 1.497(d) filed 25 October 2006.

BACKGROUND

On 21 June 2006, applicants filed papers to enter the national stage of PCT/KR2004/003425 which was accompanied by, *inter alia*, a declaration executed by the sole named inventor.

On 25 October 2006, applicants filed a petition to add three more inventors which included three statements by the inventors being added, the processing fee, an assent of the assignee, and a new executed declaration listing four inventors.

DISCUSSION

Applicants request to add three inventors (Gun-Woo LEE, Ki-Won PARK and Dong-Mug SEONG) as additional inventors in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and any inventor being removed as an inventor that any error in inventorship in the

international application occurred without deceptive intention on his or her part;

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

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants filed three statements by the inventors being added who all declare that the "inventorship error occurred without deceptive intention on my part." This is sufficient for item (1). The processing fee of $130.00 has been paid. A written consent of the assignee signed by the CEO and President of the assignee was also provided. The position of CEO and President in an organization is presumed to have the authority to sign for the organization. *See* § 324 MPEP. The assignment reel and frame number was also provided. Item (3) is satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

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

Gun-Woo LEE, Ki-Won PARK and Dong-Mug SEONG have been added as an inventor in the subject application. The executed declaration filed 25 October 2006 listing four inventors is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 December 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 25 October 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Vincent Thominet	: DECISION ON REQUEST FOR
Patent Number	: 7594607	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,988	: 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 **602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/23/2010

Applicant	: Naoki Tomoguchi	: DECISION ON REQUEST FOR
Patent Number	: 7662447	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/583,990	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **466** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2 3 MAR 2009

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

In re Application of CHRISTENSEN et al. Application No.: 10/583,993 PCT No.: PCT/DK04/00911 Int. Filing Date: 22 December 2004 Priority Date: 22 December 2003 Attorney Docket No.:CHRISTENSEN10A For: IDENTIFICATION OF ENCODED BEADS	DECISION ON PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicant's "Request to Correct Inventorship pursuant to 37 CFR 1.497(d)", filed in the United States Patent and Trademark Office (USPTO) on 21 January 2009 in the above referenced application. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 22 June 2006, applicant filed a request entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 21 October 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month was required.

On 12 January 2009, applicant responded to the Form PCT/DO/EO/905 along with the instant petition to correct inventorship.

DISCUSSION

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

Petitioner provided the statement of Morton Meldal, the inventor to be added, in support of the correction of inventorship under 37 CFR 1.497(d). Applicant also filed an executed declaration. A review of the application file reveals that the petition fee of $130 was paid. Applicant also submitted the written consent of the assignee to add Morton Meldal as an inventor. Applicant satisfied the requirements of 37 CFR 1.497(d) and met all of the requirements to add Morton Meldal as an inventor in the above-identified international

application.

The declaration filed on 21 January 2009 meets the requirements of 37 CFR 1.497(a) and (b) as it identifies the application, all the inventors and provides their respective citizenship. An Application Data Sheet was also provided.

CONCLUSION

Applicant's petition under 37 CFR 1.497(d) to add inventor Morton Meldal is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 January 2009.**

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

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

2 5 MAR 2009

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PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
SHIOMI et al.	:	DECISION ON
Application No.: 10/583,999	:	
PCT No.: PCT/JP2005/000326	:	PAPERS
Int. Filing Date: 01 June 2005	:	
Priority Date: 01 July 2004	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 0425-1258PUS1	:	
For: FILTER FOR GAS GENERATOR	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 22 June 2006, which was accompanied by a declaration of inventors. The indication in this declaration that joint inventor Kazumitsu Shiomi is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 June 2005, applicants filed international application PCT/JP2005/000326 which claimed a priority date of 01 July 2004 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 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2007 (01 January 2007 being a Federal holiday).

On 22 June 2006, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of inventors. The indication in this declaration that joint inventor Kazumitsu Shiomi is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). The declaration filed 22 June 2006 does not indicate that the persons signing are all the heirs. When the declaration is

signed by a legal representative, the declaration should state that this person is the legal representative. Alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. When the declaration is not signed by a legal representative and does not indicate that the persons signing are all of the heirs (or the sole heir), then it must be accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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

Applicant is required to submit a proper declaration within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

/Daniel Stemmer/

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

2 1 DEC 2009

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FALLS CHURCH VA 22040-0747

In re Application of	:	
SHIOMI et al.	:	DECISION ON
Application No.: 10/583,999	:	
PCT No.: PCT/JP2005/000326	:	PAPERS
Int. Filing Date: 01 June 2005	:	
Priority Date: 01 July 2004	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 0425-1258PUS1	:	
For: FILTER FOR GAS GENERATOR	:	

This is a decision on the renewed request under 37 CFR 1.42 filed by applicants on 26 May 2009.

BACKGROUND

On 01 June 2005, applicants filed international application PCT/JP2005/000326 which claimed a priority date of 01 July 2004 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 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2007 (01 January 2007 being a Federal holiday).

On 22 June 2006, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of inventors. The indication in this declaration that joint inventor Kazumitsu Shiomi is deceased was treated as a request for status under 37 CFR 1.42.

On 25 March 2009, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. Specifically, it was noted that the declaration filed 22 June 2006 did not indicate that the persons signing were all the heirs. Nor was the declaration accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

On 26 May 2009, applicants filed the instant renewed request under 37 CFR 1.42 which was accompanied by a statement by the attorney.

DISCUSSION

The statement filed 26 May 2009 is sufficient. The submissions filed 22 June 2006 and 26 May 2009 have been reviewed and have been found in compliance with 37 CFR 1.42. The declaration filed 22 June 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

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

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Kenilworth NJ 07033

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OFFICE OF PETITIONS

In re Application of	:	
Van Der Louw, et al.	:	
Application No. 10/584,006	:	ON APPLICATION FOR
Filed: June 22, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2003.810US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINAION UNDER 37 C.F.R. § 1.705(B), filed June 17, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred seventy-six(476) days, not three hundred eighty-four(384) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Pursuant to applicants' authorization, deposit account no. 50-4205 will be charged the required $200 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.

---

[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.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ORGANON USA, INC.
c/o MERCK
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth, NJ 07033

Mail Date: 04/20/2010

Applicant	: Jaap Van Der Louw	: DECISION ON REQUEST FOR
Patent Number	: 7582622	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **455** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2 4 NOV 2008

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38724
OSI PHARMACEUTICALS, INC
41 Pinelawn Road
Melville, NY 11747

In re Application of
FYFE *et al*
Application No.: 10/584,025
PCT No.: PCT/GB2004/050046
Int. Filing Date: 23 December 2004
Priority Date: 24 December 2003
Attorney Docket No.: NC-10009/US
For: HETEROCYCLIC DERIVATIVES AS GPCR RECEPTOR AGONISTS

DECISION

This decision is in response to the papers filed 24 September 2008 which are treated as a petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 11 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 26 August 2008, applicants filed an executed declaration and surcharge fee. The name of an inventor was listed as Lisa Sarah BERTRAM (GARDNER) on the declaration. However, the name of the inventor was recorded as Lisa GARDNER on the international publication.

On 27 August 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration filed 26 August 2008 was not in compliance with 37 CFR 1.497(a) and (b).

On 24 September 2008, applicants filed the subject response.

DISCUSSION

Applicants' response filed 24 September 2008 is treated as a petition to change the name of the inventor. Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

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

The $400.00 petition fee has been charged to Deposit Account No. 50-2783 as authorized. However, applicants failed to provide a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or provide a copy of the court order changing the name of the inventor.

As such, the petition to change the name of the inventor cannot be granted at this time.

CONCLUSION

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

The declaration filed 26 August 2008 is still not in compliance with 37 CFR 1.497(a) and (b).

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

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 MAR 2009

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38724
OSI PHARMACEUTICALS, INC
41 Pinelawn Road
Melville, NY 11747

In re Application of
FYFE *et al*
Application No.: 10/584,025
PCT No.: PCT/GB2004/050046
Int. Filing Date: 23 December 2004
Priority Date: 24 December 2003
Attorney Docket No.: NC-10009/US
For: HETEROCYCLIC DERIVATIVES AS GPCR RECEPTOR AGONISTS

DECISION

This decision is in response to the papers filed 21 January 2009 which are treated as a renewed petition to change the name of an inventor.

BACKGROUND

On 24 November 2008, a decision dismissing applicants' petition to change the name of an inventor was mailed. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 21 January 2009, applicants filed a renewed petition which was accompanied by, *inter alia*, a statement of the inventor whose name has changed.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the MPEP lists the procedures required to change the name of an inventor and states, in part:

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

In the original petition, petitioners submitted the $400.00 petition fee but did not provide an affidavit signed by the inventor whose name had changed as required. Hence, applicants' request to change the name of the inventor from Lisa Gardner to Lisa Bertram was dismissed without prejudice.

In the renewed petition, applicants have provided a statement by the inventor

whose name has changed which lists both names and indicating that the change was as a result of marriage.

This is sufficient for a grantable petition.

CONCLUSION

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

The declaration submitted 26 August 2008 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 December 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 August 2008.

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

15 AUG 2006

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MILLAN, WHITE ZELANO & BRANIGAN, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

In re Application of DUESTERBERG *et al* U.S. Application No.: 10/584,045 PCT No.: PCT/EP2004/013545 Int. Filing Date: 20 November 2004 Priority Date: 26 November 2003 Attorney Docket No.: SCH-1994-A For: EXTENDED USE COMBINATION COMPRISING ESTROGENS AND PROGESTINS	:	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 22 June 2006 is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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Millen White Zelano & Branigan
Arlington Courthouse Plaza 1
2200 Clarendon Blvd
Suite 1400
Arlington, VA 22201

Mail Date: 04/21/2010

Applicant	: Christophe Gueret	: DECISION ON REQUEST FOR
Patent Number	: 7582204	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **425** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/20/2010

Applicant	: Shinichiro Nishimura	: DECISION ON REQUEST FOR
Patent Number	: 7598372	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Marco Annoni	: DECISION ON REQUEST FOR
Patent Number	: 7664483	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

02 AUG 2006

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

In re Application of:	:	
LEE, Jeong-Min, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/584,094	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/KR2004/002842	:	
Int'l Filing Date: 05 November 2004	:	
Priority Date: 05 November 2003	:	
Attorney Docket No.: L69.12-0003	:	
For: METHOD AND STRUCTURE FOR	:	
MIXING DIFFERENT MATERIALS	:	

The petition to revive under 37 CFR 1.137(b) filed 22 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statements in the "Declaration By Applicant Regarding Unintentional Abandonment" are construed as the statement required by 37 CFR 1.137(b)(3), that is, 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." Based on this interpretation, 37 CFR 1.137(b)(3) is considered satisfied. Applicants must notify this Office immediately if this is not a correct interpretation of such statements.

Applicants have now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

The 22 June 2006 submission included an executed declaration 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 22 June 2006.

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

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MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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OFFICE OF PETITIONS

In re Application of	:	
Peter Jonathon Legg, et al.	:	
Application No. 10/584,099	:	DECISION ON PETITION
Filed: June 7, 2007	:	TO WITHDRAW
Attorney Docket No. 562492007200	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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21 JUL 2006

Judson K. Champlin
Westman, Champlin & Kelly, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

In re Application of	:	
LEE, et al.	:	
Application No.: 10/584,107	:	
PCT No.: PCT/KR04/02890	:	DECISION ON PETITION
Int. Filing Date: 09 November 2004	:	
Priority Date: 10 November 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: L69.12-0004	:	
For: METHOD AND STRUCTURE FOR MIXING	:	
DIFFERENT MATERIALS IN A POUCH	:	
CONTAINER	:	

The petition to revive under 37 CFR 1.137(b) filed 22 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been provided.

The application has an international filing date of 09 November 2004 under 35 U.S.C. 363 and will be given a date of **22 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Jeong-Min Lee	: DECISION ON REQUEST FOR
Patent Number	: 7617929	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,107	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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David R. Saliwanchik
SALIWANCHIK, LLOYD & SALIWANCHIK
A Professional Association
PO Box 142950
Gainesville, FL 32614-2950

In re Application of: KHAN, Nazir et al.	: DECISION
Application No.: 10/584,121	: ON
PCT No.: PCT/GB2005/000121	: PETITION
Int. Filing Date: 14 January 2005	:
Priority Date: 14 January 2004	: UNDER
Atty Docket No.: GJE-7660	:
For: LASER IMAGING	: 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition to File Application Without Signature of Joint Inventor" under 37 CFR 1.47(a) filed 04 February 2008. The Deposit Account No. 19-0065 will be charged the required $200 petition fee.

BACKGROUND

On 14 January 2005, applicants filed international application PCT/GB2005/000121. The international application claimed priority date of 14 January 2004 and designated the United States. On 28 July 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 international filing date, i.e., 14 July 2006.

On 23 June 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, *inter alia*, payment of the basic national fee.

On 04 November 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 04 February 2009, applicant filed a response to the Notification of Missing Requirements that included payment extension of time for 1 month, payment of the required surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered

herein. The petition seeks acceptance of the application without the signature of inventor Nazir KHAN, whom applicant asserts has refused to execute the application.

DISCUSSION

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

Applicant here has authorized a charge to Deposit Account No. 19-0065 for the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

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

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

Applicant has filed a declaration that contains an unsigned signature block for the non-signing inventor and is executed by the other inventor of record. 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 non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney." The MPEP also states the following:

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

Here, the evidence submitted to show that inventor Nazir KHAN has refused to sign is insufficient. The applicant has presented a letter by RE Perry dated 16 June 2006 which states a copy of application was included. However, this letter fails to specifically indicate the application number. Further, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to Nazir KHAN and when such papers were sent and that Nazir KHAN has subsequently refused to execute the

application. The declaration of Mr. Andrew Whyte constitutes secondhand knowledge, in that the mailing of the application was conducted by RE Perry.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Nazir KHAN, 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.

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20 NOV 2009

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In re Application of: KHAN, Nazir et al.	:	DECISION
U.S. Application No.: 10/584,121	:	ON
PCT No.: PCT/GB2005/000121	:	RENEWED
International Filing Date: 14 January 2005	:	PETITION
Priority Date: 14 January 2004	:	UNDER
Atty's Docket No.: GJE-7660	:	37 CFR 1.47(a)
For: LASER IMAGING	:	

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 03 August 2009. Applicants have previously paid the required petition fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 01 June 2009. The decision dismissed without prejudice the petition under 37 CFR 1.47(a) for failure to satisfy all requirements of a grantable petition.

On 03 August 2009, applicants filed the renewed petition considered herein.

DISCUSSION

As previously stated, 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 inventor on behalf of himself and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

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

With regard to item (4), the declaration of Robert Edward Perry provides an acceptable showing that the application papers were presented to inventor Dr. Nazir KHAN and Dr. KHAN had reused to execute the application. Applicants have therefore satisfied the final requirement of a grantable petition under 37 CFR 1.47(a).

In sum, Petitioner has satisfied Items (1)-(4). Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The application is accepted without the signature of non-signing inventor Dr. Nazir KHAN.

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

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 04 February 2009.

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20 NOV 2009

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United Kingdom

In re Application of: KHAN, Nazir et al.
U.S. Application No.: 10/584,121
PCT No.: PCT/GB2005/000121
International Filing Date: 14 January 2005
Priority Date: 14 January 2004
Atty's Docket No.: GJE-7660
For: LASER IMAGING

Dear Dr. Khan:

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

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

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Counsel Of Record:
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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Reinhard Heyder	: DECISION ON REQUEST FOR
Patent Number	: 7644514	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **348** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

THELEN REID BROWN RAYSMAN & STEINER LLP
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NEW YORK NY 10150-1510

In re Application of

BLATT, Lawrence M. et al.
Application No. 10/584,169
Filed: July 02, 2007
Attorney Docket No. **6319-4503US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT, WILL & EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

25 JUL 2006

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In re Application of PATELL	:	
U.S. Application No.: 10/584,228	:	
PCT Application No.: PCT/IB04/02531	:	
Int. Filing Date: 23 July 2004	:	DECISION
Priority Date Claimed: 18 August 2003	:	
Attorney Docket No.: 20049.3USWO	:	
For: NOVEL THERAPEUTIC EXTRACTS AND MOLECULES FOR DEGENERATIVE CONDITIONS	:	

This is in response to applicant's "Petition for Revival Under 37 CFR § 1.137(b)" filed 23 June 2006.

BACKGROUND

On 23 July 2004, applicant filed international application PCT/IB04/02531, which claimed priority of an earlier Patent Cooperation Treaty application filed 18 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 24 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 18 February 2006.

International application PCT/IB04/02531 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 June 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

With regard to item (3), the petition states, "The abandonment and the entire delay from 18 February 2006, until the filing of this petition and the U.S. National Stage application 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 23 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 June 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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08 DEC 2008

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CLARK & BRODY
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SUITE 250
WASHINGTON DC 20005

In re Application of BÜLTE, Michael et al. Application No.: 10/584,270 PCT No.: PCTDE2004/002723 Int. Filing Date: 13 December 2004 Priority Date: 23 December 2003 Docket No.: 12007-0075 For: SPECIES-SPECIFIC AND QUANTITATIVE DETECTION OF CNS TISSUE IN MEAT AND MEAT PRODUCTS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's petition under 37 CFR 1.181filed in the United States Patent and Trademark Office on 20 October 2008.

BACKGROUND

On 22 March 2007, 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), the surcharge for late filing of the search fee, examination fee or oath or declaration and a sequence listing in compliance with regulations were required. The Notification set a two (2) month extendable period for reply.

On 22 June 2007, applicants filed a response to the Notification, accompanied by the fee for a one month extension of time.

On 21 July 2008, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that a sequence listing in compliance with regulations was still required. The Notification set a one month time limit for response. Extensions of time were not available.

On 15 August 2008, applicants resubmitted the sequence listing and computer readable format.

On 12 September 2008, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to properly respond to the Notification of Missing Requirements. The Notification directed applicant to both an enclosed error report and to PAIR.

On 20 October 2008, applicants filed this petition under 37 CFR 1.181.

DISCUSSION

The Office received each of applicant's submissions of the sequence listing. Each was found defective. The error reports are viewable in PAIR. As applicant failed to properly respond to the Notification of Missing Requirements with the time period for response and did not cure the deficiency

within the time limit set in the Notification of Defective Response, the above application is abandoned.

Applicants may wish to consider the filing of a petition under 37 CFR 1.137.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

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/

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2 9 JAN 2009

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WASHINGTON, DC 20005

In re Application of	:	
BULTE, et al.	:	
Application No.: 10/584,270	:	
PCT No.: PCT/DE04/02723	:	DECISION ON PETITION
Int. Filing Date: 13 December 2004	:	
Priority Date: 23 December 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 12007-0075	:	
For: SPECIES-SPECIFIC AND QUANTITATIVE DETECTION OF CNS TISSUE IN MEAT AND MEAT PRODUCTS	:	

The petition to revive under 37 CFR 1.137(b) filed 05 January 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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 CRF of the sequence listing. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. In addition, a review of the filed papers finds that applicant has provided all of the requirements for entry into the U.S. national stage.

The application has an international filing date of 13 December 2004 under 35 U.S.C. 363 and will be given a date of **22 June 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.

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16 MAY 2007

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In re Application of FOX et al	:	
U.S. Application No.: 10/584,358	:	
PCT Application No.: PCT/AU2004/001820	:	DECISION
Int. Filing Date: 23 December 2004	:	
Priority Date Claimed: 24 December 2003	:	
Attorney Docket No.: 3276-7872US	:	
For: A SYSTEM FOR WATER TREATMENT	:	

This is in response to applicant's "Petition by Person Having Proprietary Interest to File Application on Behalf of Inventors Who Refuse to Sign or Cannot Be Found (37 C.F.R. § 1.47(b))" filed 02 March 2007.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/AU2004/001820, which claimed priority of an earlier Australia application filed 24 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 June 2006.

On 23 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 March 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, 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 joint inventors John Fox and Errol O'Brien refuse to sign the application papers. However, petitioner has not established that a bona fide attempt was made to present a copy of the application papers to Fox and O'Brien for signature. Furthermore, petitioner has not provided any specific details of the alleged refusal to sign. Thus, it would not be reasonable to conclude at the present time that the inventors refuse to join in the application.

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

With regard to item (4) above, the declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors is improper. Specifically, the declaration does not state the name of the person who executed the declaration.

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).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or

(ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case, petitioner has provided evidence of a chain of title from the inventors to Bushwater Holdings Pty Ltd. More specifically, petitioner has supplied copies of assignment agreements signed by the inventors granting title to the present invention to Bushwater Pty Ltd. and a copy of a license agreement by which Bushwater Pty Ltd. in turn assigned its rights to the present invention to Bushwater Holdings Pty Ltd.

With regard to item (6) above, an adequate statement with regard to the preservation of rights of the parties and/or the prevention of irreparable harm has been furnished.

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. Extensions of time are available under 37 CFR 1.136. Failure to respond in a timely manner will result in ABANDONMENT of the present 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.

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In re Application of FOX et al	:	
U.S. Application No.: 10/584,358	:	
PCT Application No.: PCT/AU2004/001820	:	DECISION
Int. Filing Date: 23 December 2004	:	
Priority Date Claimed: 24 December 2003	:	
Attorney Docket No.: 3276-7872US	:	
For: A SYSTEM FOR WATER TREATMENT	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)" filed 16 October 2007.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/AU2004/001820, which claimed priority of an earlier Australia application filed 24 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 June 2006.

On 23 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 March 2007, applicant filed a petition under 37 CFR 1.47(b).

On 16 May 2007, this Office mailed a decision dismissing the 02 March 2007 petition.

On 16 October 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), (5), 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 joint inventors John Fox and Errol O'Brien refuse to sign the application papers. With regard to inventor Fox, petitioner has not adequately demonstrated that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to Fox for signature. Although a declaration was sent to Fox (see affidavit of Edgar Cataxinos, ¶2, and Exhibit A), it has not been shown that the specification, claims, and drawings were ever presented to Fox. Petitioner has, however, furnished sufficient evidence of Fox's refusal to cooperate. In particular, Fox made an express oral refusal to sign during a telephone conversation (see affidavit of Nancy Johnson, ¶1). With respect to inventor O'Brien, although it appears that a bona fide attempt was made to present a copy of the applications papers to O'Brien for signature (see Exhibit F, letter from Nancy Johnson), an affidavit from Ms. Johnson, the person who made such attempt, has not been furnished. Petitioner has, however, supplied adequate evidence of O'Brien's refusal to sign. In particular, even though O'Brien stated that he is not refusing to sign in the letter dated 11 October 2007, O'Brien nevertheless declined to return an executed declaration and made clear that he is unwilling to proceed under present conditions, which is deemed a constructive refusal to cooperate. Therefore, before it can be concluded that inventors Fox and O'Brien refuse to join in the application, petitioner must: (1) demonstrate that a bona fide attempt was made to present Fox with the specification, claims, and drawings and (2) provide an affidavit from Ms. Johnson

stating that the specification, claims, and drawings were included with the letter sent to O'Brien on 20 September 2007.

With regard to item (4) above, a declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventors has been provided.

CONCLUSION

For the reasons above, the renewed 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. Extensions of time are available under 37 CFR 1.136. Failure to respond in a timely manner will result in ABANDONMENT of the present 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

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25 APR 2008

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SALT LAKE CITY, UT 84110

In re Application of FOX et al	:	
U.S. Application No.: 10/584,358	:	
PCT Application No.: PCT/AU2004/001820	:	DECISION
Int. Filing Date: 23 December 2004	:	
Priority Date Claimed: 24 December 2003	:	
Attorney Docket No.: 3276-7872US	:	
For: A SYSTEM FOR WATER TREATMENT	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)" filed 08 April 2008.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/AU2004/001820, which claimed priority of an earlier Australia application filed 24 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 June 2006.

On 23 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 March 2007, applicant filed a petition under 37 CFR 1.47(b).

On 16 May 2007, this Office mailed a decision dismissing the 02 March 2007 petition.

On 16 October 2007, applicant filed a renewed petition under 37 CFR 1.47(b).

On 08 February 2008, this Office mailed a decision dismissing the 16 October 2007 renewed petition.

On 08 April 2008, applicant filed the present second 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), (5), 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 joint inventors John Fox and Errol O'Brien refuse to sign the application papers. With regard to inventor Fox, petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to Fox for signature (see the 08 April 2008 affidavit of Nancy Johnson, ¶1-2). Petitioner has previously furnished sufficient evidence of Fox's refusal to cooperate. With respect to inventor O'Brien, the present petition adequately illustrates that a bona fide attempt was made to present a copy of the applications papers to O'Brien for signature (see 08 April 2008 affidavit of Nancy Johnson, ¶1-2). Petitioner has previously supplied sufficient evidence of O'Brien's refusal to sign. Thus, it can be concluded with reasonable certainty that inventors Fox and O'Brien refuse to join in the application.

CONCLUSION

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

This application has an international filing date of 23 December 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 16 October 2007.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventors at the last known address of record and will be published in the *Official Gazette.*

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

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Mail Date: 04/20/2010

Applicant	: Martine Petronella Bos	: DECISION ON REQUEST FOR
Patent Number	: 7628995	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,362	: 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 **388** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 8 MAY 2007

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305 College Road East
Princeton, NJ 08540

In re Application of SCHNEIDER et al. Application No.: 10/584,382 PCT No.: PCT/IB04/04233 Int. Filing Date: 21 December 2004 Priority Date: 22 December 2003 Atty. Docket No.: BR-036 PUS 01 For: ASSEMBLY OF GAS-FILLED MICROVESICLE WITH ACTIVE COMPONENT FOR CONTRAST IMAGING	:	DECISION

This decision is issued in response to applicants' "Request for Earlier 371(c) Date" filed 25 January 2007 which is being treated as a Request for Corrected Filing Receipt and Notification of Acceptance under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 21 December 2004, applicants filed international application PCT/IB04/04233 which claimed a priority date of 22 December 2003. A copy of the international application, which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase, was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 June 2006.

On 21 June 2006, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv); and a preliminary amendment.

On 21 September 2006, applicants filed a Declaration and Power of Attorney.

On 16 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR

1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 21 September 2006 and a 35 U.S.C. 371 completion date of 21 September 2006.

On 16 January 2007, applicants filed "Request for Earlier 371(c) Date."

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 21 September 2006 to 21 June 2006. The actual filing date of the present application is the international filing date, i.e., 21 December 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, a copy of the international application, and an executed declaration (Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv)) were filed with the USPTO on 21 June 2006, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 21 June 2006 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 21 June 2006. (See MPEP section 1893.03(b)).

CONCLUSION

Applicants' request for a corrected Notification of Acceptance and Official Filing Receipt under 37 CFR 1.181 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) mailed on 16 January 2007 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 21 June 2006 under 35 U.S.C. 371(c).

Anthony Smith

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0 8 MAY 2007

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Bracco Research USA Inc.
305 College Road East
Princeton, NJ 08540

In re Application of
SCHNEIDER et al.
Application No.: 10/584,382
PCT No.: PCT/IB04/04233
Int. Filing Date: 21 December 2004
Priority Date: 22 December 2003
Atty. Docket No.: BR-036 PUS 01
For: ASSEMBLY OF GAS-FILLED MICROVESICLE WITH ACTIVE COMPONENT FOR CONTRAST IMAGING

DECISION

This decision is issued in response to applicants' "Request for Earlier 371(c) Date" filed 25 January 2007 which is being treated as a Request for Corrected Filing Receipt and Notification of Acceptance under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 21 December 2004, applicants filed international application PCT/IB04/04233 which claimed a priority date of 22 December 2003. A copy of the international application, which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase, was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 June 2006.

On 21 June 2006, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv); and a preliminary amendment.

On 21 September 2006, applicants filed a Declaration and Power of Attorney.

On 16 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR

1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 21 September 2006 and a 35 U.S.C. 371 completion date of 21 September 2006.

On 16 January 2007, applicants filed "Request for Earlier 371(c) Date."

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 21 September 2006 to 21 June 2006. The actual filing date of the present application is the international filing date, i.e., 21 December 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, a copy of the international application, and an executed declaration (Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv)) were filed with the USPTO on 21 June 2006, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 21 June 2006 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 21 June 2006. (See MPEP section 1893.03(b)).

CONCLUSION

Applicants' request for a corrected Notification of Acceptance and Official Filing Receipt under 37 CFR 1.181 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) mailed on 16 January 2007 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 21 June 2006 under 35 U.S.C. 371(c).

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Mail Date: 06/09/2010

Applicant	: Daisuke Oohira	: DECISION ON REQUEST FOR
Patent Number	: 7662402	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/584,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **677** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of KROZ et al	:	
U.S. Application No.: 10/584,438	:	
PCT Application No.: PCT/GB2004/005091	:	DECISION
Int. Filing Date: 03 December 2004	:	
Priority Date Claimed: 03 December 2003	:	
Attorney Docket No.: 31755 USA	:	
For: INTERLEUKIN-11 FUSION PROTEINS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 06 July 2006.

BACKGROUND

On 03 December 2004, applicant filed international application PCT/GB2004/005091, which claimed priority of an earlier European Patent Office application filed 03 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 June 2006.

International application PCT/GB2004/005091 became abandoned as to the United States for failure to timely pay the basic national fee.

On 06 July 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

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

BryanLin

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11 JUN 2008

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In re Application of KROZ et al	:	
U.S. Application No.: 10/584,438	:	
PCT Application No.: PCT/GB2004/005091	:	COMMUNICATION
Int. Filing Date: 03 December 2004	:	
Priority Date Claimed: 03 December 2003	:	
Attorney Docket No.: 31755 USA	:	
For: INTERLEUKIN-11 FUSION PROTEINS	:	

This is in response to the executed declaration filed 29 January 2008.

The declaration is an improper composite document consisting of one each of Pages 1 and 2, two of Page 3, and three of Page 4. It is not acceptable to combine individual pages from different copies of a declaration for submission as a complete declaration. Applicant must furnish either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each of the inventors executes at least one of the multiple complete declarations.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916) indicating that a new declaration must be filed.

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0 9 MAY 2007

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In re Application of	:	
PROS et al.	:	
Application No.: 10/584,442	:	DECISION ON PETITION
Filing Date: July 18, 2006	:	
Attorney Docket No.: 68349-00025USPX	:	
For: MULTI-BAND MONOPOLE ANTENNAS FOR MOBILE COMMUNICATIONS DEVICES	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may

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

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

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

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

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

This matter is being referred to Technology Center Art Unit 2821 for appropriate action on the amendment filed November 24, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Boris Milef
Office of Petitions/Office of PCT Legal Adminstration

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/584,442	07/18/2006	2821	1030	68349-00025USPX	20	3

CONFIRMATION NO. 4143

CORRECTED FILING RECEIPT

OC000000023776167

61060
WINSTEAD SECHREST & MINICK P.C.
P.O. BOX 50784
DALLAS, TX 75201

Date Mailed: 05/09/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jaume Anguera Pros, Castellon, SPAIN;
Carles Puente Baliarda, Barcelona, SPAIN;

Assignment For Published Patent Application

FRACTUS S.A., Barcelona, SPAIN

Power of Attorney: The patent practitioners associated with Customer Number **23932**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP05/00880 01/28/2005
which is a CIP of PCT/EP02/14706 12/22/2002
and claims benefit of 60/540,450 01/30/2004

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/584,442

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-band monopole antennas for mobile communications devices

Preliminary Class

343

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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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Masatoshi Hagiwara	: DECISION ON REQUEST FOR
Patent Number	: 7569536	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **39** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 13 2009

OFFICE OF PETITIONS

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

In re Application of	:	
AZIMA, Henry et al.	:	
Application No. 10/584,490	:	DECISION ON PETITION
Filed: August 25, 2006	:	TO WITHDRAW
Attorney Docket No. **55304**	:	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, 2009.

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 March 23, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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MARK WILSON
WILSON AND HAM
2530 BERRYESSA RD
PMB 348
SAN JOSE, CA 95132

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Kornelis Meinds et al.	:	
Application No. 10/584,501	:	ON PETITION
Filed: June 22, 2006	:	
Attorney Docket No.: NL03 1514 US1	:	

This is a decision on the petition filed April 24, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 31, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 3, 2008. Accordingly, a Notice of Abandonment was mailed February 26, 2009.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

---

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

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

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

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

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

This matter is being referred to Technology Center 2628 for appropriate action on the amendment filed April 24, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/26/2010

Applicant	: Pierre Demaj	: DECISION ON REQUEST FOR
Patent Number	: 7653865	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/584,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Gilles Dubroeucq	: DECISION ON REQUEST FOR
Patent Number	: 7647641	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,511	: 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 **725** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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14 FEB 2008

26021
HOGAN & HARTSON L.L.P.
1999 Avenue of the Stars
Suite 1400
Los Angeles, CA 90067

In re Application of KUKINO *et al* Application No.: 10/584,515 PCT No.: PCT/JP04/19228 Int. Filing Date: 22 December 2004 Priority Date: 24 December 2003 Attorney Docket No.: 81880.0149 For: CERAMIC HEATER AND METHOD FOR MAKING THE SAME	:	**DECISION**

This decision is in response to the reply filed 25 October 2007 which is treated as a petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 27 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 15 May 2007, applicants filed an executed declaration and surcharge fee. The name of the second inventor was listed as Hideaki YOSHIDOME on the declaration. However, the surname was listed as SHIMOZURU on the international publication.

On 27 August 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) as the last name on the declaration was different from the name listed on the international publication. Applicants were given one month, or any time remaining in the Form PCT/DO/EO/905 mailed 27 April 2007 to respond, whichever was longer.

On 25 October 2007, applicants filed the subject response which was accompanied by, *inter alia*, a four-month extension and fee, a declaration of Hideaki Yoshidome and authorization to charge any required fee to Deposit Account No. 50-1314.

DISCUSSION

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

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

Applicants' response is treated as a petition to change the name of the inventor. The $400.00 petition fee has been charged to Deposit Account No. 50-1314 as authorized.

In the response filed 25 October 2007, applicants submitted a declaration by the inventor who claims that "[a]s a child I was adopted into the Shimozuru family. At that time my name was Hideaki Shimozuru. In April 2005, the adoption was dissolved. I am presently using my primary family last name which is Yoshidome." This explanation is not sufficient.

Applicants must explain the procedure of how his last name reverted back to his primary family name. It is unclear what the term "adoption was dissolved" means in Japanese law and what the legal ramifications are. A further explanation is required. Documentary evidence may be required.

CONCLUSION

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

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely respond will result in the 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.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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26021
HOGAN & HARTSON L.L.P.
1999 Avenue of the Stars
Suite 1400
Los Angeles, CA 90067

In re Application of	:	
KUKINO *et al*	:	
Application No.: 10/584,515	:	
PCT No.: PCT/JP04/19228	:	
Int. Filing Date: 22 December 2004	:	**DECISION**
Priority Date: 24 December 2003	:	
Attorney Docket No.: 81880.0149	:	
For: CERAMIC HEATER AND METHOD	:	
FOR MAKING THE SAME	:	

This decision is in response to the papers filed 11 April 2008 which are treated as a renewed petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 14 February 2008, a decision dismissing applicants' petition to change the name of an inventor was mailed. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 11 April 2008, applicants filed a request for reconsideration of the prior decision which was accompanied by, *inter alia*, Appendix A - D.

DISCUSSION

As previously discussed, applicants filed a declaration on 15 May 2007 naming the second inventor as Hideaki YOSHIDOME. However, the second inventor was listed as Hideaki SHIMOZURU on the international publication. As such, the declaration was not accepted.

On 25 October 2007, applicants filed a petition under 37 CFR 1.182 to change the name of the inventor to Hideaki YOSHIDOME. This petition was dismissed as the explanation given for the change in name required further explanation. In the petition, applicants submitted a declaration by the second inventor who claimed that "[a]s a child I was adopted into the Shimozuru family. At that time my name was Hideaki Shimozuru. In April 2005, the adoption was dissolved. I am presently using my primary family last name which is Yoshidome."

In the renewed petition, applicants have satisfactorily explained the procedure whereby the name of the second inventor's surname has been changed to YOSHIDOME. Applicants explained that Japan Civil Code Article 811 allows persons to dissolve the adoptive relationship and resume using his original surname. An English language translation of this article was provided. Applicants also provided sufficient evidence that the second inventor was born as Hideaki YOSHIDOME. An English language translation of the individual entry was provided.

This is sufficient for a grantable petition.

CONCLUSION

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

The declaration filed 15 May 2007 is now in compliance with 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 22 December 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 15 May 2007.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVE., NW
WASHINGTON, DC 20036

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AUG 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Eiichi Sadayuki, et al.	:	
Application No.: 10/584,620	:	ON PETITION
Filed: June 26, 2006	:	
Attorney Docket No.: 28951.1179	:	

This is a decision on the petition, filed August 4, 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 June 30, 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 2838 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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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Tadashi Marumoto	:	
Application No. 10/584,625	:	DECISION GRANTING PETITION
Filed: August 14, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2006_1039A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 25, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 27, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

1 8 MAY 2009

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Thomson Licensing LLC
P.O. Box 5312
Two Independence Way
PRINCETON NJ 08543-5312

In re Application of	:	
LOUCHKOFF, Marc	:	
Application No.: 10/584,650	:	DECISION ON
PCT No.: PCT/EP2004/053477	:	
Int. Filing Date: 15 December 2004	:	PETITION
Priority Date: 06 January 2004	:	
Attorney Docket No.: PF040013	:	UNDER 37 CFR 1.181
For: OUTSIDE UNIT FOR SATELLITE	:	
RECEPTION AND METHOD OF	:	
RECEPTION WITH SAID UNIT	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181 to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on 13 March 2009.

BACKGROUND

On 21 March 2007, the Office mailed Notification of Missing Requirements (PCT/DO/EO/905), indicating *inter alia* that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 09 May 2007, applicant filed a response to Notification of Missing Requirements. However, the response was filed in application no. 11/584,650.

On 24 June 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification mailed 21 March 2007.

On 17 June 2008, applicants filed this petition to withdraw the holding of abandonment.

DISCUSSION

The Notification of Abandonment mailed 24 June 2008, issued in error and is hereby vacated. The Office is in receipt of the declaration of the inventor and surcharge for late filing of the search fee, examination fee or oath or declaration.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/905) mailed 24 June 2008 is **VACATED**.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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30 AUG 2006

RAKOCZY MOLINO MAZZOCHI SIWIK LLP
6 W. HUBBARD ST.
SUITE 500
CHICAGO IL 60610

In re Application of	:	DECISION ON
KOCSIS et al	:	
Application No.: 10/584,661	:	
PCT No.: PCT/HU2004/000123	:	
Int. Filing Date: 18 December 2004	:	PETITION UNDER
Priority Date: 19 December 2003	:	
Attorney's Docket No.: 0103-0004/2	:	
For: Novel Pharmaceutical Compositions With	:	
Increased Activity	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 26 June 2006. The $1,810 fee for filing the application and the $1,500 fee has been charged to Deposit Account No.: 503626 as stipulated in the transmittal letter.

BACKGROUND

On 18 December 2004, this international application was filed, claiming an earliest priority date of 19 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 June 2005.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 19 June 2006. This international application became abandoned with respect to the United States at midnight on 19 June 2006 for failure to pay the required basic national fee.

On 26 June 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

25 JUL 2006

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Dilworth and Barrese LLP
333 Earle Ovington Blvd
Suite 702
Uniondale, NY 11553

In re Application of KELLEY et al	:	
U.S. Application No.: 10/584,678	:	
PCT Application No.: PCT/US03/37994	:	
Int. Filing Date: 26 November 2003	:	DECISION
Priority Date Claimed: 27 February 2003	:	
Attorney Docket No.: 1238-2 PCT US	:	
For: METHOD FOR DIGITALLY CREATING	:	
LITHEPHANE-TYPE IMAGES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 28 June 2006.

BACKGROUND

On 26 November 2003, applicant filed international application PCT/US03/37994, which claimed priority of an earlier United States application filed 27 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 August 2005.

International application PCT/US03/37994 became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 June 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 not provided the required statement. Specifically, the petition is not signed in accordance with 37 CFR 1.33(b), which specifies that papers filed with the USPTO must be signed by a registered patent attorney/agent, an assignee who has exercised its right to take action under 37 CFR 3.73(b), or all of the applicants. In the present case, the petition is signed by only one of the applicants. Furthermore, page 1 of the petition appears to be an original sheet whereas page 2 appears to have been transmitted by facsimile, which raises doubt as to whether the actual submitted pages were together at the time of execution. Applicant must submit either the original executed document or a complete copy thereof.

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 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.

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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17 OCT 2006

Dilworth and Barrese LLP
333 Earle Ovington Blvd
Suite 702
Uniondale, NY 11553

In re Application of KELLEY et al	:	
U.S. Application No.: 10/584,678	:	
PCT Application No.: PCT/US03/37994	:	
Int. Filing Date: 26 November 2003	:	DECISION
Priority Date Claimed: 27 February 2003	:	
Attorney Docket No.: 1238-2 PCT US	:	
For: METHOD FOR DIGITALLY CREATING	:	
LITHEPHANE-TYPE IMAGES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 September 2006.

BACKGROUND

On 26 November 2003, applicant filed international application PCT/US03/37994, which claimed priority of an earlier United States application filed 27 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 August 2005.

International application PCT/US03/37994 became abandoned as to the United States for failure to timely pay the basic national fee.

On 18 September 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

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

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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17 FEB 2009

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OSTROLENK, FABER, GERB &
SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403

In re Application of	DECISION ON
Frank HENGLEIN et al	
Application No.: 10/584,691	
PCT No.: PCT/EP04/14663	
Filing Date: 23 December 2004	PETITION UNDER
Priority Date: 21 July 2004	
Attorney Docket No.: P/746-7	
For: METAL PIGMENTS COMPRISING ...	
COATING AND USE THEREOF	37 CFR 1.181

This decision is in response to applicants' "PETITION TO SET ASIDE NOTICE OF ABANDONMENT," which is being treated as a petition under 37 CFR 1.181 filed on 30 October 2008, requesting acceptance of a copy of the Declaration submitted as filed in the USPTO on 22 May 2007. Applicants have submitted, inter alia, a copy of the 22 May 2007 PTO stamped itemized postcard receipt.

BACKGROUND

On 23 June 2006, applicants filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee. No executed declaration or oath was filed at such time.

On 21 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by the International application number and international filing date .. is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notice indicated that the items must be submitted within two months from date of mailing or by 32 months from the priority date of the application, in order to avoid abandonment of the national stage application.

On 26 June 2008, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 3/21/2007 within the time period set therein.

On 22 August 2008, the USPTO mailed applicant a communication informing applicant that the application was abandoned.

In response to the "NOTICE OF ABANDONMENT" mailed on 26 June 2008 and the communication on 22 August 2008, petitioner submitted on 30 October 2008 the instant petition requesting withdrawal of the "Notice of Abandonment." In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 22 May 2007. The response is timely with an extension of time of one month because it was after the time period allocated in the Notice.

DISCUSSION

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

(1) Response to Notification of Missing Requirements (Executed Declaration and Power of Attorney)

The postcard lists the above item and bears a USPTO date of stamp as 22 May 2007.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Petitioner's postcard is accepted as *prima facie* that a Declaration was timely deposited with the U.S. Patent and Trademark Office on 22 May 2007.

Accordingly, the date of receipt for the Declaration is 22 May 2007. Applicants are being charged one month extension fee of $130.00 to Deposit Account No.: 15-0700 because the executed declaration was received after the two month period allocated in the Notice.

As a result, the Notice of Abandonment (Form PCT/DO/EO/909) mailed on 26 June 2008 was erroneous.

CONCLUSION

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

The NOTICE OF ABANDONMENT mailed on 26 June 2008 has been **VACATED**.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for continue processing.

Rafael Bacares
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PCT Legal Office
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2 8 JAN 2008

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2352
OSTROLINK FABER GERB & SOFFEN
1180 Avenue of the Americas
New York, NY 10036-8403

In re Application of KRÜGER, Peter U.S. Application No.: 10/584,695 PCT No.: PCT/DE2004/002742 Int. Filing Date: 15 December 2004 Priority Date: 23 December 2003 Attorney Docket No.: P/746-8 For: COLORED METAL PIGMENTS, METHOD FOR THE PRODUCTION THEREOF, . . .	**DECISION**

This is a decision on the "Request to Set Aside Notice of Abandonment" filed on 20 December 2007.

BACKGROUND

On 16 August 2006, applicant purportedly filed a document titled "Submission of Declaration" along with an executed declaration and a check for $130.00. These papers were not located in the file.

On 08 May 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. A two-month time period for response was set with extensions of time available.

On 25 May 2007, applicant purportedly filed a "Response to Notification of Missing Requirements . . ." along with copies of the documents previously submitted on 16 August 2006. These papers also were not located in the file.

On 14 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned for failure to respond to the Form PCT/DO/EO/905 within the time period set.

On 20 December 2007, applicant filed the instant petition which was accompanied by, *inter alia*, copies of documents purportedly filed 16 August 2006 and a stamped postcard receipt for the 16 August 2006 documents.

DISCUSSION

Applicant claims that a declaration was filed in the subject application along with the required surcharge fee on 16 August 2007. Another declaration was filed with their response on 22 May 2007. However, the U.S. application number was inadvertently recorded as 10/548,695 instead of 10/584,695 on both these submissions. As such, the papers were never matched with the subject application.

A review of U.S. application number 10/548,695 has located the correspondence as described by applicants. Therefore, the petition filed 20 December 2007 is treated as a petition under 37 CFR 1.182 to correct the application number and move the papers to the proper application. The $400.00 petition fee has been charged to Deposit Account No. 15-0700 as authorized.

A review of the responses filed 16 August 2006 and 25 May 2007 found in U.S. Application No. 10/548,695. clearly shows that they were intended for the above-captioned application. The docket number, title and name of applicant correspond to the above-captioned application. Moreover, the declaration references international application PCT/DE2004/002742. The subject application is the national stage of PCT/DE2004/002742.

Accordingly, the papers filed 16 August 2006 and 25 May 2007 have been moved into the above-captioned application.

DECISION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 08 May 2007 and the Form PCT/DO/EO/909 mailed 14 November 2007 are both hereby **VACATED**.

A review of the declaration filed 16 August 2006 shows that it is in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge fee has been moved to the subject application.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 21 October 2005, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 August 2006.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson

James Thomson

Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Wouter Eyckmans	: DECISION ON REQUEST FOR
Patent Number	: 7638922	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,699	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Hartmut S. Engel	: DECISION ON REQUEST FOR
Patent Number	: 7611257	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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14 AUG 2006

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of	:	
SKARABELA	:	
Application No.: 10/584,749	:	DECISION ON
PCT No.: PCT/CZ2003/000022	:	
Int. Filing Date: 03 April 2003	:	PETITION UNDER
Priority Date: 13 March 2003	:	
Attorney Docket No.: U 016242-0	:	37 CFR 1.137(b)
For: GADGET FOR DISPLAYING ADVERTISING,	:	
CONTAINING PAPERS FOR USED CHEWING GUM	:	

This decision is in response to applicant's submission filed 20 June 2006.

BACKGROUND

On 03 April 2003, applicant filed international application PCT/CZ2003/000022 which designated the U.S. and claimed a priority date of 13 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2005.

On 20 June 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, a declaration of the inventor, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 20 June 2006.

As to item (2), applicant submitted the petition fee on 20 June 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.

Declaration of Inventors

The declaration of inventors filed 15 May 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 is required has been charged to Deposit Account 12-0425.

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
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14 AUG 2006

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of	:	
HIRSCHMANNER	:	
Application No.: 10/584,759	:	DECISION ON
PCT No.: PCT/AT2004/000405	:	
Int. Filing Date: 18 November 2004	:	PETITION UNDER
Priority Date: 20 November 2003	:	
Attorney Docket No.: WMB-12405	:	37 CFR 1.137(b)
For: METHOD AND DEVICE FOR CONVERTING	:	
HEAT INTO MECHANICAL WORK	:	

This decision is in response to applicant's submission filed 27 June 2006.

BACKGROUND

On 18 November 2004, applicant filed international application PCT/AT2004/000405 which designated the U.S. and claimed a priority date of 20 November 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) 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 (20 May 2006 being a Sunday).

On 27 June 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, an unexecuted declaration of the inventor, and a petition under 37 CFR 1.137(b) to revive the application.

On 21 July 2006, applicant filed a submission including a declaration of inventors 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.

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 27 June 2006.

As to item (2), applicant submitted the petition fee on 27 June 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.

Declaration of Inventors

The declaration of inventors filed 21 July 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

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

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

COPY MAILED
JAN 20 2009

Applicant: Lehoux, et al.
Appl. No.: 10/584,811
International Filing Date: December 24, 2004
Title: SIMPLIFIED METHOD TO RETRIEVE CHITOSAN FROM ACIDIC SOLUTIONS THEREOF
Attorney Docket No.: 2003390-0032
Pub. No.: US 2007/0265434 A1
Pub. Date: November 15, 2007

This is a decision on the request entitled "Request for Republication of Application under 37 CFR 1.221a", received on April 9, 2008 which appears to be a request for a Republication to correct the inventorship, as only one name was published rather than both of the inventors.

The request 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). Applicant filed the request as a follow-on paper and not a "Pre-Grant Publication" request.

A guide for filing a request for a Pre-Grant Publication may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Applicant paid the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i) ($130.00). The publication fee ($300.00) will be refunded to applicants' deposit account Deposit account 03-1721.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

26 JUL 2006

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of ALVAREZ, Luis Marquez Application No.: 10/584,812 PCT No.: PCT/ES03/00338 Int. Filing Date: 25 July 2003 Priority Date: None Attorney Docket No.: HERR 14.001APC For: VERTEBRAL FIXATION DEVICE FOR THE TREATMENT OF SPONDYLOLISTHESIS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 June 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 PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2008

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of:	:	
BELLOTT, Emile, M., et al.	:	DECISION ON PETITION
U.S. Application No.: 10/584,821	:	
PCT No.: PCT/US2004/043087	:	
International Filing Date: 23 December 2004	:	
Priority Date: 24 December 2003	:	
Atty Docket No.: MLA.028NP	:	
For: SMMR (SMALL MOLECULE METABOLITE REPORTERS) FOR USE AS IN VIVO GLUCOSE BIOSENSORS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.181(a) To Withdraw Holding Of Abandonment" filed 13 March 2008. No petition fee is required.

BACKGROUND

On 23 December 2004, applicants filed international application PCT/US2004/043087. The international application claimed a priority date of 24 December 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., 26 June 2006 (24 June 2006 was a Saturday).

On 26 June 2006, applicant 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.

On 22 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 in compliance with 37 CFR 1.497 and payment of the search fee, the examination fee, and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 22 October 2007, applicants filed a "Response To Missing Requirements Under 35 U.S.C. 371" (with required five-month extension fee). The response included payment of the required surcharge, search fee, and examination, as well as an executed ten-page declaration document.

On 11 February 2008, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned because the declaration filed on 22 October 2007 was an unacceptable compilation of separate declaration documents.

On 13 March 2008, applicant filed the "Petition Under 37 CFR 1.181(a) To Withdraw Holding Of Abandonment" considered herein, accompanied by complete copies of the four-page declarations executed by each of the inventors herein.

DISCUSSION

As correctly noted in the Notification Of Abandonment mailed 11 February 2008, the declaration document filed by applicants on 22 October 2007 was a defective compilation of multiple declaration documents. However, as set forth in 37 CFR 1.135(c):

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

The submission of the executed but defective declarations on 22 October 2007 is considered a *bona fide* attempt to satisfy the declaration requirement contained in the Notification of Missing Requirements. Accordingly, rather than a Notification Of Abandonment, a "Notification Of Defective Response" (Form PCT/DO/EO/916) identifying the defect in the filed declaration document and requiring submission of an acceptable declaration within a one-month, non-extendable deadline should have been mailed in response to the filing of the defective declarations.

The mailing of the "Notification Of Abandonment" (Form PCT/DO/EO/909) without first permitting applicants the opportunity to file a timely response to a "Notification Of Defective Response" (Form PCT/DO/EO/916) was improper. The "Notification Of Abandonment" (Form PCT/DO/EO/909) mailed 11 February 2008 is therefore properly vacated, as requested by applicants in the present petition.

It is noted that the present petition was accompanied by complete copies of the four-page declarations executed by each of the inventors. The submission of these declarations resolves the compilation defect identified in the vacated Notification of Abandonment.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 February 2008 is hereby **VACATED**.

The complete declarations filed 13 March 2008 are accepted in compliance with 37 CFR 1.497.

This application is being returned to the National Stage Processing Branch of the Office of PCT operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 March 2008.

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

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

In re Application of	:	
Joel P. CASTAN	:	
Application No. 10/584,823	:	DECISION ON PETITION
Filed: June 26, 2006	:	
Docket No. 63853-5094	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 25, 2009.

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

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

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received October 15, 2009.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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0 8 FEB 2008

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United States Patent and Trademark Office
P.O. Box 1450
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Gerard F. Diebner
Dreier LLP
499 Park Avenue
New York, New York 10022

In re Application of	:	
Asaki, et al.	:	
U.S. Serial No.: 10/584,829	:	DECISION ON
PCT No.: PCT/JP2004/019553	:	
Int. Filing Date: 27 December 2004	:	PETITION UNDER
Priority Date: 25 December 2003	:	
Attorney's Docket No.: 44342.025000	:	37 CFR 1.10(c)
For: AMIDE DERIVATIVE AND MEDICINE	:	

This decision is in response to "REQUEST FOR CORRECTION OF APPLICATION FILING DATE AND WITHDRAWAL OF NOTICE OF ABANDONMENT, filed 30 November 2007. This has been treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a national stage filing date of 26 June 2006.

BACKGROUND

On 27 December 2004, applicants filed international application PCT/JP2004/019553 that claimed priority of an earlier Japanese application filed 25 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 26 June 2006.

On 26 June 2006, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, an English translation, a declaration and the basic national fee of $300. These papers were assigned U.S. Serial No. 10/584,829.

On 20 November 2007, a "NOTIFICATON OF ABANDONMENT" (Form PCT/DO/EO/909) was mailed to applicant indicating that the application was abandoned for failure to pay the basic national fee of $300 by thirty months from the earliest claimed priority date.

On 30 November 2007, applicants filed the current petition requesting that the above-identified application be accorded a national stage filing date of 26 June 2006.

DISCUSSION

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant filed the petition promptly after realizing that the Office accorded a filing date other than the "date-in" date and the USPS round stamp date. Further, the Express Mail mailing label number was placed on the "Certificate of mailing by "Express Mail" included with the filing of the national stage application. Applicant has also provided an "Express Mail" label showing a "date-in" of 26 June 2006.

CONCLUSION

Applicant's petition to correct the national stage filing date to 26 June 2006 is hereby **GRANTED**.

The "NOTICE OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 20 November 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage for processing in accordance with this decision.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (571) 272-3280
Facsimile: (571) 273-0459

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Joe Liebeschuetz
TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	DECISION ON
TYMIANSKI, Michael et al.	:	
Application No. 10/584,831	:	
PCT No.: PCT/CA2004/002193	:	
Int. Filing Date: 22 December 2004	:	PETITION UNDER
Priority Date: 23 December 2003	:	
Attorney's Docket No.: 026373-000300US	:	
For: POLYPEPTIDES FOR MODULATING	:	
BINDING OF TRP CHANNEL PROTEINS	:	37 CFR §1.137(b)
AND TRP-ASSOCIATED PROTEINS	:	

This petition decision is in response to Applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 04 December 2006. The Petition identifies the Applicant as being entitled to small entity status. The small entity fee for the Petition in the amount of $750 has been submitted.

BACKGROUND

On 22 December 2004, the above-named international application was filed with claimed foreign priority to 23 December 2003. Under 35 USC §1.371(b) and under 37 CFR §1.495(b), Applicant must submit the items identified in 35 USC §1.371(b) no later than 30 months from the date of foreign priority upon entrance into the national stage of examination. In the instant application, the thirty-month date would be 23 June 2006.

On 26 June 2006, a "Transmittal Letter To The United States Designated/Elected Office (DO/EO/US) Concerning A Submission Under 35 USC 371" was received in the United States Patent and Trademark Office (USPTO) that included an "express request to begin national examination procedures" under 35 USC §371(f) and that had the parts required under 35 USC §371(b) in order to enter the national phase, including the required fees. The 26 June 2006 Letter was accompanied by a "Petition For Revival Of An Application For Patent Abandoned

Unintentionally Under 37 CFR 1.137(b)" with the small entity petition fee of $750 as provided for in 37 CFR §1.17(m).

Since the Basic National Fee was received after the thirty-month period for entry into the national phase of examination had expired, the instant application went abandoned at midnight of 23 June 2006.

DISCUSSION

Under 37 CFR §1.137(b), a grantable petition for revival of an unintentionally abandoned application 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 CFR §1.17(m); (3) a statement under 37 CFR §1.137(b)(3) that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional; and (4) any terminal disclaimer that may be required under 37 CFR §1.137(d).

The Petitioner has submitted the basic national filing fee (small entity) of $150, has submitted petition fee (small entity) of $750, and has stated that the delay was unintentional. No terminal disclaimer is required.

DECISION

For the reasons set forth above, the petition under 37 CFR §1.137(b) is hereby **GRANTED**.

This application is being forwarded to the United States Designated Office/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.

Bernarr E. Gregory
Office of PCT Legal Administration

Leonard E. Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeong, Chang Min	:	
Application No. 10/584,832	:	DECISION ON PETITION
Filed: June 27, 2006	:	
Attorney Docket No. WELLP0114US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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, 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 3765 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED
JUL 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Sammo Cho, et al.	:	
Application No. 10/584,839	:	DECISION GRANTING PETITION
Filed: June 26, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 51876P1113	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 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 June 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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

Mail Date: 04/21/2010

Applicant	: Keiji Kaita	: DECISION ON REQUEST FOR
Patent Number	: 7628125	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,856	: 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 **833** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 04/21/2010

Applicant	: Benjamin L. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7598034	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,875	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **558** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

DATE 22 OCT 2007

APPLICATION NUMBER 10/584,880

DOC CODE RETDEC-OSPE

DOC DATE 22 OCT 2007

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

2 2 OCT 2007

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Alexandria, VA 22313-1450
www.uspto.gov

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

In re Application of	:	
MAY, Lutz.	:	
Application No.: 10/584,880	:	DECISION
PCT No.: PCT/EP2004/014796	:	
Int. Filing Date: 29 December 2004	:	ON PETITION UNDER
Priority Date: 30 December 2003	:	
Docket No.: 40124/090201	:	37 CFR 1.137(b)
For: TORQUE SENSOR	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.137(b)," filed in the above-captioned application on 06 June 2007.

BACKGROUND

On 29 December 2004, applicants filed international application no. PCT/EP2004/014796, claiming a priority date of 30 December 2003. A copy of the international application was transmitted to the Office by the International Bureau on 14 July 2005. The deadline for payment of the basic national fee in the United States was 30 June 2006.

On 28 June 2006, applicants filed a transmittal letter for entry into the national phase in the United States. The basic national fee was not paid.

On 10 April 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely pay the basic national fee.

On 06 June 2007, applicants submitted a petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or 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) the required reply, (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 (1) and (4) have been satisfied.

Items (2) and (3) have not been satisfied. The proper reply is payment of the basic national fee. While applicant's 06 June 2007 submission indicates that it was accompanied by a credit card form, the fees are not in the application. The petition fee is also not in the application. If applicant has records that the fees were changed please forward such records. Otherwise, applicants can pay the fees online with a renewed petition or forward an additional credit card authorization.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 1 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
MAY, Lutz.	:	
Application No.: 10/584,880	:	DECISION
PCT No.: PCT/EP2004/014796	:	
Int. Filing Date: 29 December 2004	:	ON PETITION UNDER
Priority Date: 30 December 2003	:	
Docket No.: 40124/090201	:	37 CFR 1.137(b)
For: TORQUE SENSOR	:	

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 25 October 2007 is **GRANTED**.

Applicant previously indicated 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 now been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration of inventorship in compliance with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 06 June 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

12/21/2007 SBASHEIR 00000003 501492 10584880
Sale Ref: 00000003 DA#: 501492 10584880
01 FC:1453 1500.00 DA
02 FC:1631 300.00 DA
03 FC:1617 130.00 DA
04 FC:1642 400.00 DA
05 FC:1633 200.00 DA

Attorney Docket No. 40124/09201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	May
Serial No.	:	10/584,880
Filing Date	:	June 28, 2006
For	:	Torque Sensor
Group Art Unit:	:	2855
Confirmation No.	:	9433
Examiner	:	To Be Assigned

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

PETITION

This is in response to the Decision mailed on October 22, 2007 in the above-identified application. The Decision indicates that the Petition to revive the application was denied because a proper payment of the basic national fee was not received by the USPTO. Applicant respectfully submits that a proper payment was submitted at the time the Petition was field on June 6, 2007. In particular, Applicant submitted a Credit Card Authorization PTO 2038 Form. A copy of the original submitted PTO 2038 form is enclosed herewith.

Thus, Applicant submits that all requirements to revive the application were satisfied and respectfully requests that the Petition to Revive be granted.

Respectfully submitted,

Dated: October 25, 2007

By: _____
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, N.Y. 10038
(212) 619-6000 (telephone)
(212) 619-0276 (facsimile)

Attorney Docket No. 40124/09201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	May
Serial No.	:	10/584,880
Filing Date	:	June 28, 2006
For	:	Torque Sensor
Group Art Unit:	:	2855
Confirmation No.	:	9433
Examiner	:	To Be Assigned

Mail Stop: PCT
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P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Facsimile

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Mail Stop: PCT
P.O. Box 1450
Alexandria, VA 22313-1450
(571)273-0459

By: Date: October 25, 2007
Oleg F. Kaplun Reg. No. 45,559

TRANSMITTAL

Transmitted herewith please find a Petition in response to the Decision mailed on October 22, 2007 for filing in the above-identified application. No fees are believed to be required. However, the Commissioner is hereby authorized to charge the **Deposit Account of Fay Kaplun & Marcin, LLP No. 50-1492** for any additional required fees. A copy of this paper is enclosed for this purpose.

Respectfully submitted,

Dated: October 25, 2007

By: _____
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, N.Y. 10038
(212) 619-6000 (telephone)
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RECEIVED
25 OCT 2007
Legal Staff
International Division

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FACSIMILE COVER SHEET

FAX NO	:	(571) 273-0459
TO	:	Commissioner for Patents Mail Stop: PCT ATTN: Ms. Erin P. Thomson
FROM	:	Oleg F. Kaplun, Esq. of Fay Kaplun & Marcin, LLP
DATE	:	October 25, 2007
SUBJECT	:	U.S. Appln. Serial No. 10/584,880 for *Torque Sensor* Our Ref.: 40124/09201

NUMBER OF PAGES INCLUDING COVER : 5

MESSAGE:

Please see attached.

Thank you.

IF ANY PAGES WERE NOT RECEIVED OR ARE ILLEGIBLE, PLEASE CALL (212) 619-6000 AS SOON AS POSSIBLE
The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.

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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/24/2010

Applicant	: Shigetaka Kasuga	: DECISION ON REQUEST FOR
Patent Number	: 7626622	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/584,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

31 JUL 2006

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NIXON PEABODY LLP - PATENT GROUP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603-1051

In re Application of	:	
Maines	:	
Application No.: 10/584,886	:	DECISION
PCT No.: PCT/US04/31866	:	
Int. Filing Date: 29 September 2004	:	ON
Priority Date: 29 September 2003	:	
Attorney Docket No.:176/61623	:	PETITION
For: Methods Of Modulating Cell Cycle And Cell Signaling Pathways Using Biliverdin Reductase	:	

The petition to revive under 37 CFR 1.137(b) filed 29 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The declaration of the inventor filed on 29 June 2006 is not in compliance with 37 CFR 1.497(a) and (b) because it has not been executed by the inventor. It is also noted that it incorrectly states that this international application was filed "on 29 September 2003," rather than the correct date in 2004.

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

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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02 AUG 2006

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KENYON & KENYON
1500 K STREET N.W.
WASHINGTON DC 20005

In re Application of:	:	
SAUERMANN, Volker	:	DECISION ON PETITION
U.S. Application No.: 10/584,904	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/EP2004/009102	:	
Int'l Filing Date: 13 August 2004	:	
Priority Date: 21 November 2003	:	
Attorney Docket No.: 11884/495701	:	
For: A METHOD OF ASSIGNING OBJECTS	:	
TO PROCESSING UNITS	:	

The petition to revive under 37 CFR 1.137(b) filed 28 June 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" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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

Mail Date: 04/21/2010

Applicant	: Volker Sauermann	: DECISION ON REQUEST FOR
Patent Number	: 7664858	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/584,904	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

15 FEB 2008

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

In re Application of:	
RUI, Luciano	DECISION ON PETITION UNDER
U.S. Application No.: 10/584,954	37 CFR 1.47(b)
PCT No.: PCT/FR2005/050007	
International Filing Date: 06 January 2005	
Priority Date: 07 January 2004	
Attorney's Docket No.: 292808US6PCT	
For: DEVICE FOR CLEANING ROLLERS	

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 29 October 2007. Petitioner has filed the required petition fee.

BACKGROUND

On 06 January 2005, applicant filed international application PCT/FR2005/050007. The application claimed a priority date of 07 January 2004, and it designated the United States. On 04 August 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 July 2006.

On 05 July 2006, petitioner filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 29 October 2007, petitioner filed 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 petition satisfies items (1), (2), (3), (4), and (6).

Regarding item (1), petitioner has submitted the required $200 petition fee. Item (1) is therefore satisfied.

Regarding item (2), where it is asserted that the 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 statements from Christian Colombier and Nathalie Taramarcaz, with accompanying exhibits, as evidence of the efforts to obtain the signature of the non-signing inventor on the declaration. These materials provide the required firsthand confirmation that a copy of the complete application, with a request for signature on the declaration, was provided to the non-signing inventor, that the inventor has expressly refused to provide the executed declaration, and that the inventor has asserted that further attempts to obtain his signature will be interpreted by the inventor as harassment. These materials are sufficient to confirm that the non-signing inventor has refused to sign the declaration in the present application. Item (2) is 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, SAINT-GOBAIN GLASS FRANCE ("Saint-Gobain"). Item (4) is therefore satisfied.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner here asserts that it has the required proprietary interest based on a "Declaration of Invention" and a "Declaration of Assignment" executed by the inventor; copies of these documents, with English translations, have been included with the petition. These materials confirm that the inventor assigned to Saint-Gobain the French priority application. However, the assignment materials do not expressly refer to the international application (which was filed after these documents were executed), and the present petition does not confirm that the international application includes only subject matter contained in the assigned French priority application.[1] Under such circumstances, a statement is required from a person with firsthand knowledge confirming that the invention disclosed in the international application is the same as that disclosed in the assigned priority application (see MPEP section 409.03(f): "An assignment of an

[1] It is noted that the international application as filed included 14 claims, while the French priority application included only 10.

application and any 'reissue, division, or continuation of said application' does not itself establish an assignment of a continuation-in-part application."). Until the required supplemental materials described above are provided, item (5) is not considered satisfied.

Regarding item (6), the petition includes the required statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is therefore 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 supplemental materials required to satisfy item (5) of a grantable petition, as discussed above and in the applicable sections of the MPEP.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

0 6 JUN 2008

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

In re Application of:	:	
RUI, Luciano	:	DECISION ON RENEWED
U.S. Application No.: 10/584,954	:	PETITION UNDER
PCT No.: PCT/FR2005/050007	:	37 CFR 1.47(b)
International Filing Date: 06 January 2005	:	
Priority Date: 07 January 2004	:	
Attorney's Docket No.: 292808US6PCT	:	
For: DEVICE FOR CLEANING ROLLERS	:	

This decision is issued in response to the "Request For Reconsideration Of Petition Under 37 CFR 1.47(b)" filed 23 April 2008, treated herein as a renewed petition. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 15 February 2008. The decision dismissed the petition under 37 CFR 1.47(b) filed 29 October 2007 for failure to satisfy all the requirements of a grantable petition. Specifically, the petition did not include an adequate showing that the 37 CFR 1.47(b) applicant, SAINT-GOBAIN GLASS FRANCE ("Saint-Gobain"), had the necessary proprietary interest of in the present application.

On 23 April 2008, petitioner filed the renewed petition considered herein.

DISCUSSION

The previous decision indicated that petitioner had provided an adequate showing that the non-signing inventor had assigned to Saint-Gobain the French priority application. However, the decision required petitioner to provide supplemental materials to confirm that the invention disclosed in the international application is the same as that disclosed in the assigned priority application.

The renewed petition includes a declaration by Christian Columbier in which Mr. Columbier states that he has firsthand knowledge that the invention disclosed in international application PCT/FR05/50007 is the same as that disclosed in the assigned French priority document. This submission, in combination with the previously filed materials, provides an adequate showing that the 37 CFR 1.47(b) applicant has the necessary proprietary interest in the

present application. Accordingly, petitioner has now satisfied the final requirement of a grantable petition.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted without the signature of non-signing inventor Luciano RUI.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being 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 29 October 2007.

Richard M. Ross
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UNITED STATES PATENT AND TRADEMARK OFFICE

0 6 JUN 2008

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Luciano RUI
21 Avenue des Roses
95230 Soisy-Sous-Montmorency
FRANCE

In re Application of: RUI, Luciano
U.S. Application No.: 10/584,954
PCT No.: PCT/FR2005/050007
International Filing Date: 06 January 2005
Priority Date: 07 January 2004
Attorney's Docket No.: 292808US6PCT
For: DEVICE FOR CLEANING ROLLERS

Dear Mr. RUI:

You are identified 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. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Counsel Of Record:
Gregory J. MAIER
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
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3 0 OCT 2006

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
MARSHALL, Gary	:	
Application No.: 10/584,970	:	DECISION
PCT No.: PCT/AU04/01543	:	
Int. Filing Date: 08 November 2004	:	ON PETITION UNDER
Priority Date: 07 November 2003	:	
Docket No.: 253367	:	37 CFR 1.137(b)
For: RECEPTACLE FOR WASTE	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 30 June 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 will be charged to deposit account no. 12-1216.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

18 DEC 2006

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
MARSHALL, Gary	:	
Application No.: 10/584,970	:	
PCT No.: PCT/AU04/01543	:	DECISION
Int. Filing Date: 08 November 2004	:	
Priority Date: 07 November 2003	:	
Docket No.: 253367	:	
For: RECEPTACLE FOR WASTE	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

On 30 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. However, on 23 October 2006, applicants had filed a declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) that had not yet been matched with the application.

As such, the application complied with 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 23 October 2006. This application has been referred to the National Phase Processing Branch of the Division of PCT Operations for further processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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1 3 DEC 2007

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of LAPPETELAINEN et al. Application No.: 10/584,973 PCT No.: PCT/IB03/06229 Int. Filing Date: 30 December 2003 Priority Date: None Attorney Docket No.: 915-007.204 For: COMMUNICATION SYSTEM USING RELAY BASE STATIONS WITH ASYMMETRIC DATA LINKS	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicant's request under 37 CFR 1.497(d), filed on 24 September 2007 in the United States Patent and Trademark Office (USPTO) and treated as a petition under 37 CFR 1.182. Applicant's request for a four month extension of time is granted.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/IB03/06229 which did not claim a priority date.

On 30 June 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 02 April 2007, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required along with the surcharge for filing the oath or declaration after the thirty month period.

On 15 May 2007, applicant submitted a Combined Declaration and Power of Attorney executed by the named joint inventor and by **Jussi Ojala** (who was not identified as such in the published International application).

On 18 July 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the second inventor's name was written in the reverse order on the declaration as compared to the published international application; that is, the surname was written as the given name. A Form PCT/IB/306 was not provided.

On 24 September 2007, applicant responded to the 916 with the instant petition under 37 CFR 1.497(d).

DISCUSSION

A review of the published international application PCT/IB03/06229 reveals that

ANTTTI LAPPETELAINEN and OJALA JUSSI are the named inventors. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau to correct or add JUSSI OJALA as a co-inventor under PCT Rule 92*bis*. In lieu of the 306, applicant filed a petition under 37 CFR 1.497(d).

A petition under 37 CFR 1.497(d) is necessary where the oath or declaration names an inventive entity different from the inventive entity set forth in the international application. Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP 1893.01(e) Correction of Inventorship.

Here, the second inventor's name was reversed on the published international application and cannot be considered the result of a typographical or transliteration error. A petition under 37 CFR 1.182 is required to correct the error. Applicant's petition under 37 CFR 1.497(d) will be treated as a petition under 37 CFR 1.182. Applicant's deposit account will be charged the $400 petition fee per his authorization. The inventor provided a signed statement explaining the error and providing his correct name: Jussi Ojala. The declaration executed by the joint inventors in the above referenced application is acceptable and in compliance with 37 CFR 1.497(a) and (b). The correction of the second inventor's name to JUSSI OJALA is accepted and noted for the record.

CONCLUSION

The petition under 37 CFR 1.182 in the above-captioned application is hereby **GRANTED**.

The declaration executed by the joint inventors in the above referenced application is acceptable and in compliance with 37 CFR 1.497(a) and (b). The correction of the second inventor's name to JUSSI OJALA is accepted and noted for the record.

The application will be forward to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 15 May 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

12/13/2007 SBASHEIR 00000001 230442 10584973
Sale Ref: 00000001 DA#: 230442 10584973
01 FC:1462 270.00 DA 130.00 OP

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED

APR 07 2009

OFFICE OF PETITIONS

In re Application of	:	
George E. Wilson	:	
Application No. 10/584,976	:	DECISION ON PETITION
Filed: June 29, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 4949-67677-05	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 25, 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 **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 the evidence provided is not legible. Applicant's date of birth has been removed.

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 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 Patent Application Papers for further pre-examination processing.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
George E. Wilson

Application No. 10584976

Filed: June 29,2006

Attorney Docket No. 4949-67677-05

: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 27-APR-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

2 0 MAY 2008

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Alexandria, VA 22313-1450
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Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038

In re Application of	:	
MAY, Lutz	:	
Application No.: 10/585,012	:	DECISION ON PETITION
PCT No.: PCT/EP04/14797	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 29 December 2004	:	
Priority Date: 30 December 2003	:	
Attorney Docket No.: 40124/09401	:	
For: METHODS AND APPARATUSES FOR MAGNETIZING AN OBJECT AND FOR CALIBRATING A SENSOR DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 22 June 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 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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

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UNITED STATES DEPARTMENT OF COMMERCE
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RONALD R. SANTUCCI, ESQ
C/O FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 04/27/2010

Applicant	: Hyung Ook Kim	: DECISION ON REQUEST FOR
Patent Number	: 7601736	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/585,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **221** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

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OFFICE OF PETITIONS

In re Application of :
Hans-Joachim Lutz et al :
Application No. 10/585,047 : ON PETITION
Filed: June 29, 2006 :
Attorney Docket No. 3780 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 23, 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 24, 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 2834 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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0 5 SEP 2007

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

In re Application of	:	
CHALL	:	
Application No.: 10/585,079	:	DECISION ON
PCT No.: PCT/NL2004/000922	:	
Int. Filing Date: 29 December 2004	:	PETITION UNDER
Priority Date: 30 December 2003	:	
Attorney Docket No.: 292853US2PCT	:	37 CFR 1.497(d)
For: METHOD, DEVICE AND DIFFRACTION	:	
GRATING FOR SEPARATING SEMICONDUCTOR	:	
ELEMENTS FORMED ON A SUBSTRATE BY	:	
ALTERING SAID DIFFRACTION GRATING	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 23 July 2007, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 29 December 2004, applicant filed international application PCT/NL2004/000922 which designated the U.S. and claimed a priority date of 30 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006.

On 29 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee.

On 23 March 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) was required.

On 23 July 2007, applicants filed the instant submission which has properly been treated as a petition under 37 CFR 1.497(d). The petition is accompanied by a statement by Petrus Henrikus Van Der Laak and a declaration.

DISCUSSION

37 CFR 1.497(d), provides:

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

Items (1) and (2) have been satisfied.

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

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

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

1 9 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
CHALL	:	
Application No.: 10/585,079	:	DECISION ON
PCT No.: PCT/NL2004/000922	:	
Int. Filing Date: 29 December 2004	:	PETITION UNDER
Priority Date: 30 December 2003	:	
Attorney Docket No.: 292853US2PCT	:	37 CFR 1.497(d)
For: METHOD, DEVICE AND DIFFRACTION	:	
GRATING FOR SEPARATING SEMICONDUCTOR	:	
ELEMENTS FORMED ON A SUBSTRATE BY	:	
ALTERING SAID DIFFRACTION GRATING	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 05 November 2007.

BACKGROUND

On 29 December 2004, applicant filed international application PCT/NL2004/000922 which designated the U.S. and claimed a priority date of 30 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006.

On 29 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee.

On 23 March 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) was required.

On 23 July 2007, applicant filed a submission which was properly treated as a petition under 37 CFR 1.497(d). The petition was accompanied by a statement by Petrus Henrikus Van Der Laak, a statement by Hans Peter Chall, and a declaration.

On 05 September 2007, a decision was mailed dismissing without prejudice applicant's

petition under 37 CFR 1.497(d) because it was not clear whether there was an assignee. If there was an assignee, it was noted that the written consent of the assignee was required.

On 05 November 2007, applicant filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by, *inter alia*, a showing under 3.73(b) and a statement of the assignee.

DISCUSSION

37 CFR 1.497(d), provides:

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

As noted in the decision mailed 05 September 2007, items (1) and (2) have been satisfied and item (4) is not required.

Item (3) has now been satisfied.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Hans Peter Chall as inventor.

/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

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: 07/13/2010

Applicant	: Frédéric Berier	: DECISION ON REQUEST FOR
Patent Number	: 7646938	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/585,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

2 1 JUL 2008

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LESPERANCE & MARTINEAU
1440 WEST STE-CATHERINE ROOM 700
MONTREAL QC H3G1R8
CANADA

In re Application of	:	
Brault et al.	:	
Application No.: 10/585,096	:	DECISION
PCT No.: PCT/CA2005/000018	:	
Int. Filing Date: 07 January 2005	:	ON
Priority Date: 12 January 2004	:	
Attorney Docket No.: 3121-1A-1	:	PETITION
For: Worktable Comprising A Multidirectional Coupling	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 14 May 2008.

BACKGROUND

This international application was filed on 07 January 2005, claimed an earlier priority date of 12 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 July 2006. Applicants filed *inter alia* the basic national fee on 30 June 2006.

On 21 March 2008, 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)**, petitioner has paid $130.00 toward the $200.00 petition fee. The $70.00 balance is being charged to counsel's Deposit Account no. 12-1110, as authorized in the Transmittal Letter filed on 30 June 2006.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that "the non signing inventor could be reached but would not return the signed document," in reference to non-signing joint inventor Jean Brault. Counsel is respectfully referred to MPEP 409.03(d) for a general discussion of the showing required to satisfy this element.

Petitioner provides an "Affidavit of Mrs. Annie Roy" in which Mrs. Roy states that an assignment was transmitted to Mr. Brault's residence but he failed to execute and return it. Ms. Roy concludes, after recounting certain background facts, that "I believe it will be impossible to obtain Mr. Brault's signature for the transfer of the entire right, title and interest in the invention

to Triangle." However, Mrs. Roy does not address the issue of whether Mr. Brault has refused to execute an oath or declaration directed toward the instant application after being presented with a complete copy of the application papers. It is also noted that the French language letter from Mrs. Roy to Mr. Brault is not accompanied by an English translation. For these reasons, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

Regarding **requirement (3)**, the petition provides the last known address of the non-signing inventor. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 02 May 2008 reveals that it has been signed by joint inventors Roy and Krick on behalf of themselves and Jean Brault. However, petitioner's attention is respectfully drawn to 37 CFR 1.69(b), which provides that

> Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

The declaration alludes to the February 1998 version of form "PTO/SB/105 (2-98)," but it does not appear to be identical to the February 1998 version of Form PCT/SB/105 available at the USPTO.gov web site. Petitioner is required to explain whether the form used was in fact provided by the USPTO, and/or provide the required statement that the translation is accurate.

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)." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

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19 SEP 2008

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CANADA

In re Application of	:	
Brault et al.	:	
Application No.: 10/585,096	:	DECISION
PCT No.: PCT/CA2005/000018	:	
Int. Filing Date: 07 January 2005	:	ON
Priority Date: 12 January 2004	:	
Attorney Docket No.: 3121-1A-1	:	PETITION
For: Worktable Comprising A Multidirectional Coupling	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 10 September 2008 and the petition for withdrawal of the holding of abandonment filed on 17 September 2008, which is being treated under 37 CFR 1.181.

DISCUSSION

Petition To Withdraw Holding Of Abandonment

The Decision mailed on 21 July 2008 set a two-month period for response, extendable under 37 CFR 1.136(a). Nevertheless, on 09 September 2008, a Notice of Abandonment was mailed to applicants, indicating that this application had become "abandoned for failure to timely reply to the Decision on Petition mailed on" an unspecified date. In view of the fact that the period for response will not expire until midnight on 22 September 2008 (21 September 2008 being a Sunday), the Notice of Abandonment was clearly premature, and it is hereby **VACATED**. The holding of abandonment is **WITHDRAWN**.

Renewed Petition Under 37 CFR 1.47(a)

In the Decision mailed on 21 July 2008, the petition under 37 CFR 1.47(a) filed on 14 May 2008 was dismissed, without prejudice, because

> Regarding **requirement (2)**,... Petitioner provides an "Affidavit of Mrs. Annie Roy" in which Mrs. Roy states that an assignment was transmitted to Mr. Brault's residence but he failed to execute and return it. Ms. Roy concludes, after recounting certain background facts, that "I believe it will be impossible to obtain Mr. Brault's signature for the transfer of the entire right, title and interest in the invention to Triangle." However, Mrs. Roy does not address the issue of whether Mr. Brault has refused to execute an oath or declaration directed toward the instant application after being presented with a complete copy of the application papers. It is also noted that the French language letter from Mrs. Roy to Mr. Brault is not accompanied by an English translation. For these reasons, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.
>
> Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 14 May 2008 reveals that it has been signed by joint inventors Roy and Krick on behalf of themselves and Jean Brault. However, petitioner's attention is respectfully drawn to 37

> CFR 1.69(b)... The declaration alludes to the February 1998 version of form "PTO/SB/105 (2-98)," but it does not appear to be identical to the February 1998 version of Form PCT/SB/105 available at the USPTO.gov web site. Petitioner is required to explain whether the form used was in fact provided by the USPTO, and/or provide the required statement that the translation is accurate.

In response, regarding requirement (2), petitioner has provided an "Affidavit of Mrs. Annie Roy," who states in part that

> On August 14th, 2008, a declaration and Power of attorney form directed toward the instant patent application and a complete copy of the patent application papers were transmitted to Mr. Jean Brault's residence and the document reception was acknowledge on August 15th, 2008. Within the 15 days window allowed for return, Mr. Brault has not returned to us any such declaration and power of attorney."

Said affidavit is accompanied by a copy and translation of a letter to Mr. Brault signed by Mme. Annie Roy and dated 13 August 2008. Also provided is a copy of a postal report, without a translation. Assuming *arguendo* that the letter dated 13 August 2008 is the same letter as referred to by Mrs. Brault in her "Affidavit," it is not clear that the period provided for response would have been adequate for Mr. Brault to read the contents of the letter, decide whether to execute the application, and return the declaration. Since it is not clear that the time period allowed was reasonable under the circumstances, it would not be appropriate to conclude at this time that Mr. Brault's failure to return the executed declaration within that time should be construed as a refusal within the meaning of 37 CFR 1.47(a).

Regarding requirement (4), petitioner has provided a statement that "the French language section of the bilingual French language declaration form used as the Declaration of ownership filed on May 2nd, 2008 is an accurate translation in French of the original English language section thereof." Petitioner should clarify whether this statement pertains to the declaration filed on 30 June 2006, the declaration filed on 14 May 2008, neither or both.

DECISION

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

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)." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

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United States Patent and Trademark Office

24 NOV 2008

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CANADA

In re Application of Brault et al. Application No.: 10/585,096 PCT No.: PCT/CA2005/000018 Int. Filing Date: 07 January 2005 Priority Date: 12 January 2004 Attorney Docket No.: 3121-1A-1 For: Worktable Comprising A Multidirectional Coupling	DECISION ON PETITION

This is in response to the renewed petitions under 37 CFR 1.47(a) filed on 23 September 2008 and 03 October 2008.

DISCUSSION

In the Decision mailed on 19 September 2008, the petition under 37 CFR 1.47(a) filed on 10 September 2008 was dismissed, without prejudice, because

> regarding requirement (2), petitioner has provided an "Affidavit of Mrs. Annie Roy"... Said affidavit is accompanied by a copy and translation of a letter to Mr. Brault signed by Mme. Annie Roy and dated 13 August 2008. Also provided is a copy of a postal report, without a translation. Assuming *arguendo* that the letter dated 13 August 2008 is the same letter as referred to by Mrs. Brault in her "Affidavit," it is not clear that the period provided for response would have been adequate for Mr. Brault to read the contents of the letter, decide whether to execute the application, and return the declaration. Since it is not clear that the time period allowed was reasonable under the circumstances, it would not be appropriate to conclude at this time that Mr. Brault's failure to return the executed declaration within that time should be construed as a refusal within the meaning of 37 CFR 1.47(a).
>
> Regarding requirement (4), petitioner has provided a statement that "the French language section of the bilingual French language declaration form used as the Declaration of ownership filed on May 2nd, 2008 is an accurate translation in French of the original English language section thereof." Petitioner should clarify whether this statement pertains to the declaration filed on 30 June 2006, the declaration filed on 14 May 2008, neither or both.

In response, regarding requirement (2), petitioner argues that Mrs. Roy's statement establishes that the signed declaration was not returned in "more than three weeks from the date of receipt by Mr. Brault of the letter and declaration and power of attorney," and alludes to a "statutory minimum period required by the U.S. patent office in these cases." Petitioner is advised, respectfully, that no such "statutory minimum period" exists; rather, the standard is whether a reasonable time has been provided for the non-signing inventor to receive, review and return the oath or declaration. From petitioner's statements, it appears that Mr. Brault had not returned the executed declaration as of 03 October 2008; Mrs. Roy's cover letter accompanying

the declaration and copy of the application was mailed on 14 August 2008. From the totality of the evidence now of record, including the additional passage of time without a response from Mr. Brault, it would be reasonable to construe Mr. Brault's failure to return the executed declaration as a refusal within the meaning of 37 CFR 1.47(a).

Regarding requirement (4), petitioner has provided appropriate statements with respect to the translations of both the declaration filed on 30 June 2006 and that filed on 14 May 2008. Therefore, requirement (4) now has been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is 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 **30 June 2006**.

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Jean Brault
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CANADA

In re Application of
Brault et al.
Application No.: 10/585,096
PCT No.: PCT/CA2005/000018
Int. Filing Date: 07 January 2005
Priority Date: 12 January 2004
Attorney Docket No.: 3121-1A-1
For: Worktable Comprising A Multidirectional Coupling

Dear Mr. Brault:

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.

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VENABLE LLP
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WASHINGTON, DC 20043-9998

In re Application of	:	
WITTKAMP, Joel et al.	:	
Application No.: 10/585,110	:	DECISION ON
PCT No.: PCT/US2004/043812	:	
Int. Filing Date: 30 December 2004	:	PETITION
Priority Date: 31 December 2003	:	
Attorney Docket No.: 39619-233131	:	UNDER 37 CFR 1.47(a)
For: MIXING HEAD FOR MULTIPLE	:	
COMPONENTS SYSTEMS AND USES	:	
THEREOF	:	

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 04 September 2007 and supplemented on 16 October 2007.

BACKGROUND

On 30 December 2004, applicants filed international application PCT/US2004/043812, claiming a priority date of 31 December 2003. A copy of the international application was transmitted to the Office on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006.

On 30 June 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 02 April 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 04 September 2007, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a supporting declaration. The petition included the fee for a three month extension of time.

On 16 October 2007, applicants filed a declaration executed by Albert J. Scott, the previously non-signing inventor.

DISCUSSION

The declaration submitted on 16 October 2007 in combination with the declaration of the inventors submitted on 04 September 2007, complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

This application is being forwarded to the National Phase Processing Branch of the Office of Patent Application Processing 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 16 October 2006.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Mail Date: 04/21/2010

Applicant	: George Fodor	: DECISION ON REQUEST FOR
Patent Number	: 7577489	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of	:	
LINDER	:	
U.S. Application No.: 10/585,127	:	DECISION ON PETITION
PCT No.: PCT/SE04/01983	:	
Int. Filing Date: 22 December 2004	:	UNDER 37 CFR 1.181
Priority Date: 31 December 2003	:	
Attorney Docket No.: 43315-232515	:	
For: A METHOD AND A DEVICE FOR ELECTRO-MAGNETIC MEASUREMENT OF THICKNESS AND ELECTRICAL CONDUCTIVITY	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 31 January 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 22 December 2004, applicant filed international application PCT/SE04/01983 which claimed priority of an earlier application filed 31 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 June 2006.

On 30 June 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 28 March 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 04 January 2008, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 28 March 2007 within the time period set therein and that above-identified application was abandoned as to the United States.

On 31 January 2008, applicant filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied items (1) and (3) above.

As to item (2), applicant has not included a statement from counsel that a search of the file jacket indicates the Office action was not received.

Regarding item(4), applicant has provided a copy of the docket record for the above-captioned application which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements was not received and mis-docketed to another application. Accordingly, applicant is required to provide docket records for the entire firm for which a response was due on an Office action mailed 28 March 2007.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

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 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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1 9 MAY 2008

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In re Application of	:	
LINDER	:	
U.S. Application No.: 10/585,127	:	DECISION ON
PCT No.: PCT/SE04/01983	:	
Int. Filing Date: 22 December 2004	:	RENEWED PETITION
Priority Date: 31 December 2003	:	
Attorney Docket No.: 43315-232515	:	UNDER 37 CFR 1.181
For: A METHOD AND A DEVICE FOR ELECTRO-MAGNETIC MEASUREMENT OF THICKNESS AND ELECTRICAL CONDUCTIVITY	:	

This decision is in response to applicant's renewed petition to withdraw the holding of abandonment filed 15 April 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 15 February 2008, applicant was mailed a decision dismissing applicant's petition to withdraw the holding of abandonment. Applicant was afforded two months to file any request for reconsideration.

On 15 April 2008, applicant filed the renewed petition considered herein.

DISCUSSION

As detailed in the decision mailed 15 February 2008, the Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant previously satisfied items (1) and (3) above. With the filing of the renewed petition and accompanying documents applicant has satisfied the remaining two items.

As to item (2), applicant has now included a statement from counsel that a search of the file jacket indicates the Office action was not received.

Regarding item(4), applicant has presently provided a copy of the docket record for the for the entire firm for which a response was due on an Office action mailed 28 March 2007.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 04 January 2008 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventor is required.

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In re Application of	:	
BOLIGNANO, Dominique, et al.	:	
U.S. Application No.: 10/585,140	:	
PCT No.: PCT/FR2004/003273	:	DECISION ON
Int. Filing Date: 16 December 2004	:	
Priority Date: 31 December 2003	:	PETITION
Attorney Docket No.: BOLIGNANO1	:	
For: METHOD FOR CONTROLLING	:	UNDER 37 CFR 1.181
PROGRAM EXECUTION	:	
INTEGRITY BY VERIFYING	:	
EXECUTION TRACE	:	

This is a decision on the petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 02 June 2008.

BACKGROUND

On 28 March 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that additional claim fees, an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 12 May 2008, 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 mailed 28 March 2007.

On 02 June 2008, applicants filed this petition under 37 CFR 1.181 to withdraw the holding of abandonment accompanied by a post card receipt and a copy of what applicants claim was submitted to the Office on 29 May 2007.

DISCUSSION

Applicants claim to have submitted a timely response to the Notification of Missing Requirements and ask that holding of abandonment be withdrawn. To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped postcard receipt identifying the above captioned application and listing a declaration. Applicants have provided a copy of the declaration they claim to have earlier submitted. The copy of the declaration is accepted as having a receipt date of 27 May 2007.

CONCLUSION

For the above reason, applicants' request to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 May 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of **27 May 2007**.

/Erin P. Thomson/

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NASHUA NH 03061-0868

In re Application of:
GREENE, MICHAEL F
Serial No.: 10/585,148
Filed: June 29, 2006
Title: **WEARABLE OR PORTABLE DEVICE INCLUDING SENSORS AND AN IMAGE INPUT FOR ESTABLISHING COMMUNICATIONS INTEROPERABILITY AND SITUATIONAL AWARENESS OF EVENTS AT AN INCIDENT SITE**

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 January 31, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323) and effective August 25, 2006, the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) at least because the application, the petition and the required fees were not filed together electronically using the USPTO's electronic filing system (EFS), or EFS-web.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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In re Application of	:	
BEBBINGTON et al.	:	
Application No.: 10/585,149	:	DECISION
PCT No.: PCT/US2004/043830	:	
Int. Filing Date: 30 December 2004	:	
Priority Date: 31 December 2003	:	
Attorney's Docket No.: 073678-0026	:	
For: TRANSACTIVATION SYSTEM FOR	:	
MAMMALIAN CELLS	:	

This decision is in response to applicants' "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT," filed 17 April 2008 and the "SUPPLEMENTAL FILING IN SUPPORT OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" filed 25 August 2008. The submissions have properly been treated as a single petition under 37 CFR 1.181. The petition filed 25 August 2008 requests that, in the alternative, the petition be considered a petition to revive under 37 CFR 1.137(a).

BACKGROUND

On 30 December 2004, applicants filed international application PCT/US2004/04380, which designated the United States and claimed a priority date of 31 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006

On 30 June 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 26 March 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).

On 27 March 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT

(Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 26 March 2007.

On 17 April 2008, applicants submitted the "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT."

On 25 August 2008, applicants submitted the "SUPPLEMENTAL FILING IN SUPPORT OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT," which was accompanied by, *inter alia*, an incoming mail log for the law firm of petitioner.

DISCUSSION

Petition Under 37 CFR 1.181

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. 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 met.

As to item (3), MPEP § 711.03(c), para. I.A. states that 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." Such a master docket report has not been provided. Rather, an incoming mail log for the firm for the period between 27 March 2007 and 10 April 2007 has been provided.

Petition Under 37 CFR 1.137(a)

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already filed; (2) The petition fee as set forth in 37 CFR 1.17(l); (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) A terminal disclaimer (if necessary).

Item (1) has been satisfied.

As to item (2), the petition fee has not been paid.

Item (3) has not been satisfied. Non-receipt of the Notification mailed 26 March 2007 has not been established. As noted above, a copy of the master docket report showing all replies docketed for a date two months from the mail date of the nonreceived Office action has not been provided.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The application remains abandoned.

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

/Daniel Stemmer/

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In re Application of	:	
BEBBINGTON et al.	:	
Application No.: 10/585,149	:	DECISION
PCT No.: PCT/US2004/043830	:	
Int. Filing Date: 30 December 2004	:	
Priority Date: 31 December 2003	:	
Attorney's Docket No.: 073678-0026	:	
For: TRANSACTIVATION SYSTEM FOR	:	
MAMMALIAN CELLS	:	

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT", "RENEWAL OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT", which was accompanied by, *inter alia*, a master docket report showing all docketed due dates for all USPTO replies received at the correspondence address during the time period March 26, 2007 to June 26, 2007, "Renewal of Petition to Revive for Unavoidable Abandonment", and "Petition to Revive for Unintentional Abandonment", all filed 18 September 2008.

BACKGROUND

On 30 December 2004, applicants filed international application PCT/US2004/04380, which designated the United States and claimed a priority date of 31 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006

On 30 June 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 26 March 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).

On 27 March 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 26 March 2007.

On 17 April 2008, applicants submitted a "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT."

On 25 August 2008, applicants submitted a "SUPPLEMENTAL FILING IN SUPPORT OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT," which was accompanied by, *inter alia*, an incoming mail log for the law firm of petitioner.

On 02 September 2008, a decision was mailed properly treating the submissions filed 17 April 2008 and 25 August 2008 as a single petition under 37 CFR 1.181 and a request, in the alternative, that the petition be considered a petition to revive under 37 CFR 1.137(a). The petition under 37 CFR 1.181 was dismissed without prejudice for failing to provide a proper docket report. The petition under 37 CFR 1.137(a) was also dismissed without prejudice.

On 18 September 2008, applicants filed the instant submission.

DISCUSSION

Petition Under 37 CFR 1.181

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. 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).

As noted in the decision mailed 02 September 2008, items (1) and (2) have been met.

Item (3) has now been met as well. The copy of the docket record mentioned above is sufficient.

Petition Under 37 CFR 1.137(a)

Because the petition under 37 CFR 1.181 has been granted, the petition under 37 CFR 1.137(a) is moot.

Petition Under 37 CFR 1.137(b)

Because the petition under 37 CFR 1.181 has been granted, the petition under 37 CFR 1.137(b) is moot.

CONCLUSION

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

The NOTIFICATION OF MISSING REQUIREMENTS mailed 26 March 2007 is VACATED.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 27 March 2008 is VACATED.

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** as **MOOT**.

For the reasons set forth above, the petition under 37 CFR 1.137(b) 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/

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In re Application of	:	
BEBBINGTON et al.	:	
Application No.: 10/585,149	:	DECISION
PCT No.: PCT/US2004/043830	:	
Int. Filing Date: 30 December 2004	:	
Priority Date: 31 December 2003	:	
Attorney's Docket No.: 073678-0026	:	
For: TRANSACTIVATION SYSTEM FOR	:	
MAMMALIAN CELLS	:	

This decision is in response to applicants' "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" filed 10 February 2009 and 06 March 2009, which have properly been treated as a petition under 37 CFR 1.181. Both the NOTIFICATION OF ABANDONMENT mailed 22 January 2009 and the NOTIFICATION OF ABANDONMENT mailed 20 February 2009 were mailed in error. Both NOTIFICATIONs are hereby VACATED. Any inconvenience is regretted.

BACKGROUND

On 30 December 2004, applicants filed international application PCT/US2004/04380, which designated the United States and claimed a priority date of 31 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2006

On 30 June 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 26 March 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).

On 27 March 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT

(Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 26 March 2007.

On 17 April 2008, applicants submitted a "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT."

On 25 August 2008, applicants submitted a "SUPPLEMENTAL FILING IN SUPPORT OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT," which was accompanied by, *inter alia*, an incoming mail log for the law firm of petitioner.

On 02 September 2008, a decision was mailed properly treating the submissions filed 17 April 2008 and 25 August 2008 as a single petition under 37 CFR 1.181 and a request, in the alternative, that the petition be considered a petition to revive under 37 CFR 1.137(a). The petition under 37 CFR 1.181 was dismissed without prejudice for failing to provide a proper docket report. The petition under 37 CFR 1.137(a) was also dismissed without prejudice.

On 18 September 2008, applicants filed a submission including a petition under 37 CFR 1.181 for withdrawal of the holding of abandonment, and a request, in the alternative, that the petition be considered a petition to revive under 37 CFR 1.137(a) and 37 CFR 1.137(b).

On 08 December 2008, a decision was mailed granting applicants' petition under 37 CFR 1.181 and dismissing applicants' petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b) as moot. The decision also vacated the NOTIFICATION OF MISSING REQUIREMENTS mailed 26 March 2007 and the NOTIFICATION OF ABANDONMENT mailed 27 March 2008.

On 22 January 2009, the 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 mailed 26 March 2007.

On 22 January 2009, the DO/EO/US also mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 30 June 2006.

On 10 February 2009, applicants filed a "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" requesting that the NOTIFICATION OF ABANDONMENT mailed 22 January 2009 be withdrawn.

On 20 February 2009, the DO/EO/US mailed a second NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 26 March 2007.

On 06 March 2009, applicants filed a second "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" requesting that both the NOTIFICATION OF ABANDONMENT mailed 22 January 2009 and the NOTIFICATION OF ABANDONMENT mailed 20 February 2009 be withdrawn.

DISCUSSION

Both the NOTIFICATION OF ABANDONMENT mailed 22 January 2009 and the NOTIFICATION OF ABANDONMENT mailed 20 February 2009 were mailed in error. Both NOTIFICATIONs are hereby VACATED. Any inconvenience is regretted.

CONCLUSION

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

The NOTIFICATION OF ABANDONMENT mailed 22 January 2009 is VACATED.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 06 March 2009 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.

/Daniel Stemmer/

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In re Application of LANDAZURI	:	
U.S. Application No.: 10/585,198	:	
PCT Application No.: PCT/EP2003/014985	:	DECISION
Int. Filing Date: 30 December 2003	:	
Priority Date Claimed: none	:	
Attorney Docket No.: KOB	:	
For: CREAM FILLER COMPOSITION AND METHOD FOR PREPARING	:	

This is in response to applicant's "Petition for Filing Without Inventor's Signature Under 37 CFR 1.47(b)" filed 17 October 2007.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/EP2003/014985. A copy of the international application was communicated to the USPTO from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 30 June 2006.

On 30 June 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 16 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 April 2007, applicant filed a response.

On 17 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 17 October 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, the requisite petition fee will be charged to Deposit Account No. 02-3704.

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 Thomas Landazuri refuses to sign the application papers. Although it appears that a bona fide attempt may have been made to present a copy of the application papers to the inventor for signature (see electronic mail message dated 26 September 2006) and that the inventor may be refusing to sign (see electronic mail message dated 03 October 2006), petitioner has not furnished an affidavit from the person who actually sent such papers to the inventor and to whom the purported refusal was actually made, i.e. Carol Vandeputte. Thus, it would not be reasonable to conclude at the present time that the inventor 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 not 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 (B) applies. Petitioner has furnished a copy of an employment agreement signed by the inventor. Such employment agreement specifies that inventions made by the employee during and as a result of his employment become property of the employer (See "Article 10" of Annex 3). However, petitioner has not provided an affidavit from the person with firsthand knowledge of the present invention being made by the inventor during and as a result of his employment with the employer Amylum Belgium NV ("Amylum"). Petitioner has sufficiently established that Amylum changed its company name to Tate & Lyle Europe NV ("Tate & Lyle"), the purported assignee (see Annex 4).

With regard to item (6) above, the petition includes an adequate statement with regard to the preservation of rights of the parties.

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. Extensions of time under 37 CFR 1.136 are available. 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.

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In re Application of LANDAZURI	:	
U.S. Application No.: 10/585,198	:	
PCT Application No.: PCT/EP2003/014985	:	DECISION
Int. Filing Date: 30 December 2003	:	
Priority Date Claimed: none	:	
Attorney Docket No.: KOB	:	
For: CREAM FILLER COMPOSITION AND METHOD FOR PREPARING	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 03 January 2008.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/EP2003/014985. A copy of the international application was communicated to the USPTO from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 30 June 2006.

On 30 June 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 16 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 April 2007, applicant filed a response.

On 17 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 17 October 2007, applicant filed a petition under 37 CFR 1.47(b).

On 28 November 2007, this Office mailed a decision dismissing the 17 October 2007 petition.

On 03 January 2008, 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), 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 inventor Thomas Landazuri 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 the inventor for signature (see electronic mail message dated 26 September 2006 and affidavit of Carol Vandeputte). Furthermore, petitioner has sufficiently illustrated that the inventor refuses to sign. In particular, the inventor made an express written refusal to sign in the electronic mail message dated 03 October 2006 (see Vandeputte affidavit). Thus, it can be concluded with reasonable certainty that the inventor refuses to join in the application.

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 (B) applies. Petitioner has furnished a copy of an employment agreement signed by the inventor. Such employment agreement specifies that inventions made by the employee during and as a result of his employment become property of the employer (See "Article 10" of Annex 3). Petitioner has provided an affidavit from Roland Coen, i.e. the person with purported firsthand knowledge of the present invention being made by the inventor during and as a result of his employment with the employer Amylum Belgium NV ("Amylum"). However, Mr. Coen's affidavit is insufficient. Specifically, the affidavit appears to suggest that because Mr. Coen prepared the draft proposal of the patent application related to the present invention, Mr. Coen necessarily had firsthand knowledge of the invention being made by the inventor. However, the fact that Mr. Coen prepared the draft proposal does not establish that Mr. Coen personally observed Mr. Landazuri actually making the present invention. If such personal observation was indeed made, Mr. Coen's affidavit should so state. If such personal observation was not made by Mr. Coen, then petitioner must supply an affidavit from the person who personally observed the making of the present invention by Mr. Landazuri.

CONCLUSION

For the reasons above, the renewed 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. Extensions of time under 37 CFR 1.136 are available. 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

2 8 MAR 2008

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JAMES C. WRAY
1493 CHAIN BRIDGE ROAD, SUITE 300
MCLEAN, VA 22101

In re Application of LANDAZURI	:	
U.S. Application No.: 10/585,198	:	
PCT Application No.: PCT/EP2003/014985	:	DECISION
Int. Filing Date: 30 December 2003	:	
Priority Date Claimed: none	:	
Attorney Docket No.: KOB	:	
For: CREAM FILLER COMPOSITION AND METHOD FOR PREPARING	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 06 March 2008.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/EP2003/014985. A copy of the international application was communicated to the USPTO from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 30 June 2006.

On 30 June 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 16 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 April 2007, applicant filed a response.

On 17 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 17 October 2007, applicant filed a petition under 37 CFR 1.47(b).

On 28 November 2007, this Office mailed a decision dismissing the 17 October 2007 petition.

On 03 January 2008, applicant filed a renewed petition under 37 CFR 1.47(b).

On 01 February 2008, this Office mailed a decision dismissing the 03 January 2008 renewed petition.

On 06 March 2008, applicant filed the present second 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)-(4) and (6) above.

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 (B) applies. Petitioner has furnished a copy of an employment agreement signed by the inventor. Such employment agreement specifies that inventions made by the employee during and as a result of his employment become property of the employer (See "Article 10" of Annex 3). Petitioner has provided a supplemental affidavit from Roland Coen, i.e. the person with purported firsthand knowledge of the present invention being made by the inventor during and as a result of his employment with the employer Amylum Belgium NV ("Amylum"). Mr. Coen's supplemental affidavit states that Mr. Coen personally observed Mr. Landazuri making the present invention during Mr. Landazuri's employment with Amylum. Thus, petitioner has adequately established that the 37 CFR 1.47(b) applicant Tate & Lyle Europe NV has sufficient proprietary interest in the present invention.

CONCLUSION

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

This application has an international filing date of 30 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 January 2008.

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

2 8 MAR 2008

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THOMAS LANDAZURI
BURCHSTRAAT 10
AALST, BELGIUM
B-9300

In re Application of LANDAZURI
U.S. Application No.: 10/585,198
PCT Application No.: PCT/EP2003/014985
Int. Filing Date: 30 December 2003
Priority Date Claimed: none
For: CREAM FILLER COMPOSITION AND METHOD FOR PREPARING

Dear Thomas Landazuri:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

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

Bryan Lin

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JAMES C. WRAY
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MCLEAN, VA 22101
Attorney Docket No.: KOB

United States Patent and Trademark Office

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
Call et al.	:	
Application No.: 10/585,216	:	
PCT No.: PCT/US2004/043950	:	
Int. Filing Date: 29 December 2004	:	DECISION
Priority Date: 30 December 2003	:	
Attorney Docket No.: D0504.7009US00	:	
(L0619.70003US01)	:	
For: Thiophene Derivatives For Up-	:	
Regulating HLA-DM Activity	:	

This is in response to the petition under 37 CFR 1.182 filed on 13 March 2008.

DISCUSSION

This international application was filed on 29 December 2004 and claimed a priority date of 30 December 2003. The United States was designated. The thirty month period for payment of the basic national fee in the United States expired as of midnight on 30 June 2006. On 30 June 2006, applicants filed *inter alia* the basic national fee.

On 30 March 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of $5480.00 in claims fees, an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 01 November 2007, applicants filed a response, including a declaration, the surcharge, a preliminary amendment and the surcharge.

On 15 February 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed indicating that the declaration was defective because "inventor Melissa Nicholson has a name change."

DISCUSSION

Inspection of the declaration of the inventors filed on 01 November 2007 reveals that it nominates "Melissa Call" in place of ""NICHOLSON, Melissa" nominated in the published international application. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name,a proper petition under 37 CFR 1.182 is required to resolve the discrepancy in the nominated inventive entity in order for the declaration to be accepted. *See* MPEP §§ 605.04(b) and 605.04(c).

Applicants have filed a petition under 37 CFR 1.182 addressing this discrepancy in the inventor's name. Petitioner indicates that the inventor "married and legally changed her surname from Nicholson to Call." Petitioner provides a "Statement of Melissa Call (*Nee* Nicholson)," signed by the inventor in both names, attesting to this change. In view of the totality of the

evidence of record, it would be appropriate to accept the name as "Melissa Call" on the executed declaration.

Further inspection of the declaration filed on 01 November 2007 reveals that the copy signed by Mr. Cuny includes an un-initialed alteration to his mailing address, and that the copy signed by inventor Wucherpfennig does not nominate the complete inventive entity (since it does not name Melissa Nicholson/Call). As such, it would not be appropriate to accept the declaration at this time.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**, to the extent described above.

Applicants have **ONE (1) MONTH** from the mail date of this decision to file an oath or declaration of the inventors compliant with 37 CFR 1.497(a) and (b).. Extensions of time are **NOT** available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

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

/George Dombroske/
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3 1 JUL 2008

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BOSTON MA 02210-2206

In re Application of	:	
Call et al.	:	
Application No.: 10/585,216	:	
PCT No.: PCT/US2004/043950	:	
Int. Filing Date: 29 December 2004	:	DECISION
Priority Date: 30 December 2003	:	
Attorney Docket No.: D0504.7009US00	:	
(L0619.70003US01)	:	
For: Thiophene Derivatives For Up-	:	
Regulating HLA-DM Activity	:	

This is in response to the correspondence filed on 11 June 2008.

DISCUSSION

In a Decision mailed on 12 May 2008, the petition under 37 CFR 1.182 filed on 13 March 2008 was granted, but the declaration filed on 01 November 2007 was not accepted, without prejudice, because

> Further inspection of the declaration filed on 01 November 2007 reveals that the copy signed by Mr. Cuny includes an un-initialed alteration to his mailing address, and that the copy signed by inventor Wucherpfennig does not nominate the complete inventive entity (since it does not name Melissa Nicholson/Call). As such, it would not be appropriate to accept the declaration at this time.

In response, counsel has filed two declaration documents, signed respectively by inventors Cuny and Wucherpfennig. The document signed by Cuny cures the un-initialed alteration noted in the previous decision. However, inspection of the document signed by Wucherpfennig reveals that it appears to have been compiled by attaching a signed and faxed signature page to the remaining pages. Reference is made to MPEP 201.03, which explains in part that

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

Since applicants have not filed a copy of a complete declaration document as signed by inventor Wucherpfennig, it would not be appropriate to accept the declaration at this time.

The Decision mailed on 12 May 2008 set a period for response as follows:

> Applicants have **ONE (1) MONTH** from the mail date of this decision to file an oath or declaration of the inventors compliant with 37 CFR 1.497(a) and (b).. Extensions of time are **NOT** available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

Since the declaration filed on 11 June 2008 was defective as described above, applicants did not timely file the required reply. As such, this international application stands **ABANDONED** with respect to the national stage in the United States. It is noted that this is analogous to the practice where a Notification of Defective Response (Form PCT/DO/EO/916) is mailed, but the defect is not timely cured. Applicants may wish to consider filing, if appropriate, a petition pursuant to 37 CFR 1.137(b).

DECISION

The application is **ABANDONED**.

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

/George Dombroske/
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06 NOV 2008

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WOLF GREENFIELD & SACKS, P.C.
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BOSTON MA 02210-2206

In re Application of Call et al. Application No.: 10/585,216 PCT No.: PCT/US2004/043950 Int. Filing Date: 29 December 2004 Priority Date: 30 December 2003 Attorney Docket No.: D0504.7009US00 (L0619.70003US01) For: Thiophene Derivatives For Up-Regulating HLA-DM Activity	DECISION

The petition to revive under 37 CFR 1.137(b) filed on 27 August 2008 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 being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee. However, regarding the "required reply," the declaration filed on 27 August 2008 includes an un-initialed alteration of inventor Wucherpfennig's citizenship (that is, the addition of "/USA"). Therefore, since the declaration is defective, petitioner has not satisfied the "required reply" requirement.

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

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

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In re Application of Call et al. Application No.: 10/585,216 PCT No.: PCT/US2004/043950 Int. Filing Date: 29 December 2004 Priority Date: 30 December 2003 Attorney Docket No.: D0504.7009US00 (L0619.70003US01) For: Thiophene Derivatives For Up-Regulating HLA-DM Activity	:	DECISION

The renewed petition to revive under 37 CFR 1.137(b) filed on 06 January 2009 in the above-captioned application is hereby **GRANTED,** as follows:

Petitioner has 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 being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee. Regarding the "required reply," petitioner has submitted a new declaration nominating the entire inventive entity and signed by inventor Wucherpfennig.

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. The application status in PALM will be updated to show the application as pending, not abandoned. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **06 January 2009.**

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

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31 JUL 2006

Bryant R. Gold
Advanced Bionics Corporation
25129 Rye Canyon Loop
Valencia CA 91355

In re Application of WHITEHURST et al. Application No.: 10/585,233 PCT No.: PCT/US04/42771 Int. Filing: 17 December 2004 Priority Date: 19 December 2003 Attorney Docket No.: 05-00653 For: SKULL-MOUNTED ELECTRICAL STIMULATION SYSTEM AND METHOD FOR TREATING PATIENTS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing. Applicant's deposit account will be charged the $130 surcharged for filing the declaration after the thirty month period. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 30 June 2006.

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

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ADVANTEDGE LAW GROUP, LLC
3301 N. UNIVERSITY AVE.
SUITE 200
PROVO, UT 84604

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MAY 12 2008

In re Application of :
WHITEHURST, Todd K. et al. :
Application No. 10/585,233 : DECISION ON PETITION
Filed: June 30, 2006 : TO WITHDRAW
Attorney Docket No. **3013-0151 (05-00653-02)** : 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 14, 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 to withdraw less than all attorneys appointed by customer number 71418 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BRYANT GOLD**
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SYLMAR, CA 91342

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JUN 19 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Daniel J. Long
BAE SYSTEMS
PO Box 868
Nashua, NH 03061-0868

In re Application of:
Michael F. Greene et al.
Application No. 10/585,239
Filed: June 29, 2006
For:
DEVICE FOR ESTABLISHING COMMUNICATIONS INTEROPERABILITY AT AN INCIDENT SITE INCLUDING MEANS FOR RECORDING CRISIS INCIDENTS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on February 14, 2007 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02: Accelerated Examination, to make the above-identified application special.

The petition is **DENIED**.

REGULATION AND PRACTICE

A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a).

708.02(a) [R-5] Accelerated Examination
All petitions to make special, except those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements set forth in subsection I.
Applications filed prior to August 25, 2006 are **not** eligible for the accelerated examination program set forth below. A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth below

708.02(a), subsection VIII States:

Any non-reissue utility or design application filed under 35 U.S.C. 111(a) on or after August 25, 2006 is eligible for the accelerated examination program. The following types of filings are **not eligible** for the accelerated examination program:
(1) plant applications;
(2) reissue applications;
(3) applications entering the national stage from an international application after compliance with 35 U.S.C. 371;
(4) reexamination proceedings;
(5) RCEs under 37 CFR 1.114 (unless the application was previously granted special status under the program); and
(6) petitions to make special based on applicant's health or age or under the PPH pilot program.

The application's filing date is prior to August 25, 2006 and the application is national stage of the international application PCT/US08/081186. Therefore the application is not eligible for the accelerated examination under 37 C.F.R. § 1.102.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Hassan Kizou, WQAS
Technology Center 2400
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2 1 AUG 2009

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	:	DECISION ON
Clark et al.	:	
Application No.: 10/585,261	:	
PCT No.: PCT/US2005/000638	:	
Int. Filing Date: 07 January 2005	:	PETITION UNDER
Priority Date: 07 January 2004	:	
Attorney's Docket No.: 10159NP	:	
For: BIOMARKERS AND METHODS...	:	
FACTOR RECEPTOR MODULATORS	:	37 CFR 1.137(a)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed on 18 June 2009.

BACKGROUND

On 07 January 2005, applicants filed international application PCT/US2005/000638, which claimed priority of an earlier application filed 07 January 2004.

On 05 July 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 oath or declaration of the inventors accompanied the transmittal letter.

On 24 October 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 the International application number and international filing date... is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The Notice stated that the declaration must be submitted within two months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 15 May 2009, a Notification of Abandonment was mailed to petitioner. It stated that the applicant has failed to respond to the notification of Missing Requirements (Form PCT/DO/EO/905), mailed 10/24/08 within the time period set therein.

On 18 June 2009, petitioner filed the instant petition accompanied, inter alia, with an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 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 § **1.17(l)**; (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) Any terminal disclaimer (and fee as set forth in § **1.20(d))** required pursuant to paragraph (d) of this section.

The petition is not deemed to satisfy the requirements under 37 CFR 1.137(a). Petitioner has not satisfied item (3) but has satisfied items (1) and (2) under 37 CFR 1.137(a). In this application, no terminal disclaimer is required.

Petitioner has provided: (1) the proper reply by providing an executed declaration.

With respect to item (2), petitioner has provided the proper amount of the petition fee set forth in §1.17(I).

With respect to item (3), the showing of record by petitioner is inadequate to establish an unavoidable delay within the meaning of 37 CFR 1.137(a). A petition under 37 CFR 1.137cannot be granted unless it meets the minimal unintentional delay threshold. That is, an intentional delay precludes revival under either 37 CFR 1.137(a) (i.e., unavoidable delay), or 37 CFR 1.137(b)(i.e., "unintentional delay"). See In re Maldague,10 USPQ2d 1477, 1478 (Comm'r Pat 1988). The analysis will be based on the standard of Withdrawing Holding of Abandonment.

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "The showing required to establish nonreceipt of an Office communication 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

> 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 review of the petition reveals that petitioner has not complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed for reply. Petitioner's copy of the office's docket report is insufficient to establish failure to receive the Office communication because petitioner has not provided a copy of the log showing all the mailed received during the time period the office communication would have been received (time period between October 24, 2008 and October 30, 2008). Laura Caponi states that she searched the docket system for all dates from January 7, 2005 to May 15, 2009 and found no record of the receipt of the Notice of Missing Requirements, however no evidence was submitted as stated above such as the log showing mailed received from the USPTO between October 24, 2008 and October 30, 2008. Also, petitioner has not provided a tickler sheet for the time period around 24 December 2008. In other words, to establish a showing nonreceipt of the Notification of Missing Requirements would require, a copy of both the docket report showing all replies docketed for a date of two months from the mail date of the nonreceived Office action, which was around 24 December 2008 and a log showing all the mailed received from the USPTO during the time period the office communication would have been received.

Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned-application at this time is not appropriate.

As such, the petition is deemed not to satisfy item (3) under 37 CFR 1.137(a).

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

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

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

0 9 DEC 2009

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	DECISION ON RENEWED
Clark et al.	
Application No.: 10/585,261	
PCT No.: PCT/US2005/000638	
Int. Filing Date: 07 January 2005	PETITION UNDER
Priority Date: 07 January 2004	
Attorney's Docket No.: 10159NP	
For: BIOMARKERS AND METHODS...	
FACTOR RECEPTOR MODULATORS	37 CFR 1.137(a)

This decision is in response to Petitioner's "Renewed Petition Under 37 CFR 1.137(a)," filed on 21 October 2009.

BACKGROUND

In a decision from this Office on 21 August 2009, the petition filed on 18 June 2009 was dismissed because item (3) of 37 CFR 1.137(a) was not met.

On 21 October 2009, petitioner filed a renewed petition under 37 CF 1.137(a).

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 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 § **1.17(l)**; (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) Any terminal disclaimer (and fee as set forth in § **1.20(d)**) required pursuant to paragraph (d) of this section.

The renewed petition is still not deemed to satisfy all the items under 37 CFR 1.137(a).

Petitioner has still not satisfied item (3) under 37 CFR 1.137(a). In this application, no terminal disclaimer is required.

With respect to item (3), the showing of record by petitioner is not yet adequate to establish an unavoidable delay within the meaning of 37 CFR 1.137(a). The analysis is based on the standard of Withdrawing Holding of Abandonment.

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "The showing required to establish nonreceipt of an Office communication 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> 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 review of the renewed petition reveals that petitioner has still not completely compiled with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and **docketed for reply dated of two(2) months** from the date of mailing of the Notice of Missing Requirements.

Petitioner has submitted docket entries for all incoming USPTO correspondence received between October 24-28, 2008, as logged into their system, when the document in question would have been expected to have been received and entered in their system. Petitioner has also submitted a docket report for the instant application (exhibit 2) showing replies docketed for said application.

Petitioner, however, has not provided a tickler showing all the replies docketed (which includes other applications that have a due date around such date) for a date of two months from the mail date of the non-received Office communication around December 24, 2008. That is, a copy of the docket report showing all replies docketed for a date of two months from the mail date of the nonreceived communication.

Accordingly, petitioner has still not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The above-captioned application remains ABANDONED.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
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UNITED STATES PATENT and TRADEMARK OFFICE

05 MAR 2010

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	DECISION ON RENEWED
Clark et al.	
Application No.: 10/585,261	
PCT No.: PCT/US2005/000638	
Int. Filing Date: 07 January 2005	PETITION UNDER
Priority Date: 07 January 2004	
Attorney's Docket No.: 10159NP	
For: BIOMARKERS AND METHODS...	
FACTOR RECEPTOR MODULATORS	37 CFR 1.137(a)

This decision is in response to Petitioner's "Renewed Petition Under 37 CFR 1.181," which is being treated as a renewed petition under 37 CFR 1.137(a) filed on 15 January 2010.

BACKGROUND

In a decision from this Office on 21 August 2009, the petition filed on 18 June 2009 was dismissed because item (3) of 37 CFR 1.137(a) was not met.

On 15 January 2010, petitioner filed a renewed petition under 37 CF 1.137(a), which includes a copy of all the replies docketed for a date of two months (around December 24, 2009) from the mail date of the non-received Office communication, which was mailed from the USPTO on October 24, 2008 .

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 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 § **1.17(l)**; (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) Any terminal disclaimer (and fee as set forth in § **1.20(d)**) required pursuant to paragraph (d) of this section.

The renewed petition is deemed to satisfy the items under 37 CFR 1.137(a).

Petitioner has satisfied item (3) under 37 CFR 1.137(a). In this application, no terminal disclaimer is required.

With respect to item (3), the showing of record by petitioner is adequate to establish an unavoidable delay within the meaning of 37 CFR 1.137(a). The analysis is based on the standard of Withdrawing Holding of Abandonment.

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "The showing required to establish nonreceipt of an Office communication 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> 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 review of the renewed petition reveals that petitioner has compiled with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed for reply dated of two(2) months (around December 24, 2008) from the date of mailing of the Notice of Missing Requirements.

Petitioner has submitted a tickler showing all the replies docketed for a date of two months (around December 24, 2008) from the mail date of the non-received Office communication.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

DECISION

The petition under 37 CFR 1.137(a) is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 15 May 2009 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **18 June 2009**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OFFICE OF PETITIONS

In re Application of	:	
Matsubara et al.	:	DECISION ON PETITION
Application Number: 10/585280	:	
Filing Date: 05/24/2007	:	
Attorney Docket Number:	:	
2418.95US01	:	

This is a decision on the "PETITION TO EXPUNGE UNINTENTIONALLY SUBMITTED INFORMATION" which is treated as a petition under 37 CFR 1.59(b), filed on December 12, 2007, requesting that a miscellaneous incoming letter (hereinafter "letter") filed on December 7, 2007 be expunged.

The petition is **GRANTED-IN-PART**.

Petitioners request that the letter be expunged because it was unintentionally submitted to the USPTO. Petitioners state that the failure to obtain the return of this letter would result in irreparable harm to the party who submitted the information or the party in interest.

Petitioners therefore seek to have this document 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 authorization to charge the fee associated with the filing of petition under 37 C.F.R. §1.59 to counsel's deposit account, 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 $200.00 petition fee will be charged to counsel's deposit account as authorized in the present petition.

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.

Charles A. Pearson
Director, Office of Petitions

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OFFICE OF PETITIONS

DRINKER BIDDLE & REATH (DC)
1500 K STREET NW, SUITE 1100
WASHINGTON, DC 20005-1209

In re Application of	:	
Akimasa TANAKA	:	
Application No. 10/585,314	:	DECISION GRANTING PETITION
Filed: May 3, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **46884-5496 (228673)**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 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 10, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2826 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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FEB - 8 2007

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

In re Application of	:
Michael F. Greene et al	:
Serial No.: 10/585,329	: PETITION TO MAKE SPECIAL
Filed: June 29, 2006	:
Attorney Docket No.: 20040138	:

This is a decision on the petition filed on January 31, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a **newly** filed non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was a new application and was not filed under 35 U.S.C. 111, has more than 20 claims, the petition was not filed with the application, and has no proper application support document or pre-examination search, as required. The application is a National Stage entry under 35 U.S.C. 371 and not eligible for accelerated examination.

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, when complete.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 5000

07 DEC 2006

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Ronald E. Greigg
Greigg & Greigg P.L.L.C.
1423 Powhatan Street
Unit One
Alexandria, VA 22314

In re Application of	:	
YAMAKAWA, et al.	:	DECISION ON PETITION
Serial No.: 10/585,337	:	
PCT No.: PCT/JP04/00214	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 14 January 2004	:	
Priority Date: None	:	
Atty Docket No.: (06:82)	:	
For: SAMPLING APPARATUS	:	

The petition to revive under 37 CFR 1.137(b) filed 16 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the 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 14 January 2004 under 35 U.S.C. 363 and will be given a date of **16 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the 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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Andreas Mroncz, et al.	:	
Application No. 10/585,361	:	DECISION ON PETITION
Filed: July 6, 2006	:	
Attorney Docket No. MRONCZ ET AL-1 PCT	:	

This is a decision on the petition under 37 CFR 1.182, filed, May 10, 2010, to correct the name of inventor "Gabriele Wohnhas" to – Gabriele Boehm-Wohnhas --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correction of the above-named inventor, accompanies this decision on petition.

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

The application is being referred to the Office of Data Management to await a response to the Notice of Allowance and Fee(s) Due mailed March 24, 2010.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/585,361	07/06/2006	3761	450	MRONCZ ET AL-1 PCT	13	1

CONFIRMATION NO. 2483

CORRECTED FILING RECEIPT

25889
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

OC000000042123822

Date Mailed: 06/16/2010

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

Applicant(s)

Andreas Mroncz, Sindelfingen, GERMANY;
Gabriele Boehm-Wohnhas, Bergrheinfeld, GERMANY;

Power of Attorney:

Kurt Kelman--18628
Allison Collard--22532
Edward Freedman--26048
Frederick Dorchak--29298
Elizabeth Richter--35103
William Collard--38411
Edward Callaghan--46594

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DE05/00029 01/12/2005

Foreign Applications

GERMANY 10 2004 001 670.4 01/12/2004

If Required, Foreign Filing License Granted: 04/16/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/585,361**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

DEVICE FOR TREATING BLADDER-EMPTYING DYSFUNCTIONS OF A HUMAN

Preliminary Class

604

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).

15 SEP 2008

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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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Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia PA 19103

In re Application of	:	
SRIVATS et al.	:	
Application No.: 10/585,389	:	DECISION
PCT No.: PCT/IN2005/000006	:	
Int. Filing Date: 06 January 2005	:	
Priority Date: 07 January 2004	:	
Attorney's Docket No.: 04-40395-US	:	
For: WHEELS OF UNITARY CONSTRUCTION	:	
AND METHOD OF MAKING SAME	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT–OFFICE COMMUNICATION NOT RECEIVED," which has properly been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 13 June 2008.

BACKGROUND

On 06 January 2005, applicant filed international application PCT/IN2005/000006, which designated the United States and claimed a priority date of 07 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2006.

On 06 July 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 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 inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 13 June 2008, applicants filed the instant petition under 37 CFR 1.181.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. 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 met.

As to item (3), MPEP § 711.03(c), para. I.A. states that 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." The docket report provided does not appear to be a master docket for the firm but rather the docket records for the instant application.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application is abandoned as to the United States of America for failure to timely file a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2007.

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

/Daniel Stemmer/

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16 APR 2009

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Louis M Heidelberger
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia PA 19103

In re Application of	:	
SRIVATS et al.	:	
Application No.: 10/585,389	:	DECISION
PCT No.: PCT/IN2005/000006	:	
Int. Filing Date: 06 January 2005	:	
Priority Date: 07 January 2004	:	
Attorney's Docket No.: 04-40395-US	:	
For: WHEELS OF UNITARY CONSTRUCTION	:	
AND METHOD OF MAKING SAME	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 14 October 2008.

BACKGROUND

On 06 January 2005, applicant filed international application PCT/IN2005/000006, which designated the United States and claimed a priority date of 07 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2006.

On 06 July 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 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 inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 13 June 2008, applicants filed a petition under 37 CFR 1.181 to withdraw the abandonment based on failure to receive the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2007.

On 15 September 2008, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.181. Specifically, it was noted that the docket report provided was not sufficient.

On 26 September 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 13 September 2007.

On 14 October 2008, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. 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).

As noted in the decision mailed 15 September 2008, items (1) and (2) have been met.

Item (3) has now been met as well. MPEP § 711.03(c), para. I.A. states that 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." Such a docket report has been provided.

Declaration of the Inventor

The declaration of the inventor filed 14 October 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2007 is VACATED.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 26 September 2008 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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UNITED STATES PATENT AND TRADEMARK OFFICE

16 APR 2009

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DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

In re Application of:	:	
PRENTNER, Christian, et al.	:	DECISION
U.S. Application No.: 10/585,394	:	
PCT No.: PCT/EP2004/014688	:	
International Filing Date: 23 December 2004	:	
Priority Date: 12 January 2004	:	
Attorney's Docket No.: D4700-00424	:	
For: DRAWER PULL-OUT GUIDE	:	

This decision is issued in response to the "Petition Under 37 CFR 1.48(a) For Correction Of Inventorship – Joint Inventors" filed 28 December 2006, treated herein under 37 CFR 1.497(d).[1] Applicants have paid the required $130 processing fee.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/EP2004/014688. The application claimed a priority date of 12 January 2004, and it designated the United States. On 21 July 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., 12 July 2006. The published international application listed one applicant/inventor for the United States: Christian PRENTNER.

On 07 July 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and an unexecuted declaration.

On 28 December 2006, applicant filed the "Petition Under 37 CFR 1.48(a) For Correction Of Inventorship – Joint Inventors" considered herein, accompanied by a declaration that named and was executed by two inventors: inventor of record Christian PRENTNER, and an additional inventor, Gunter GRABHER. The petition seeks to have Gunter GRABHER added as an additional inventor of record for the present application, thereby permitting acceptance of the declaration filed 28 December 2006.

[1] 37 CFR 1.497(d), rather than 37 CFR 1.48(a), is the applicable regulation for adding an inventor to a national stage application filed under 35 U.S.C. 371.

DISCUSSION

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

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicant has filed a declaration that names an inventive entity different than that set forth in the international application (specifically, Gunter GRABHER has been added as an inventor). Accordingly, applicant must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The present submission includes the required statement of non-deceptive intent from the person to be added to the application, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. However, applicant has not submitted the written consent of assignee to the requested change in inventorship. Requirement (C) is therefore not satisfied.[2]

Based on the above, applicant has failed to submit all the requirements of a grantable request under 37 CFR 1.497(d). Accordingly, the request to add Gunter GRABHER as an additional inventor of record is appropriately dismissed on the present record.

Based on the above, the declaration filed 28 December 2006 is defective for failure to properly identify the inventors of record herein.

CONCLUSION

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

The inventorship of record herein remains that set forth in the international application, that is, Christian PRENTNER remains the sole inventor of record.

The declaration filed 28 December 2006, which includes additional inventor Gunter GRABHER, is defective on the present record for failure to properly identify the inventors of record herein.

---

[2] It is noted that such assignee consent must be submitted in compliance with 37 CFR 3.73(b).

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 Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable request under 37 CFR 1.497(d), as discussed above and in the MPEP, that is, the written consent of the assignee to the proposed change of inventorship in the form required by 37 CFR 3.73(b).

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

1 5 MAY 2009

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DUANE MORRIS LLP - Philadelphia
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PHILADELPHIA PA 19103-4196

In re Application of:	
PRENTNER, Christian, et al.	DECISION ON RENEWED
U.S. Application No.: 10/585,394	REQUEST UNDER
PCT No.: PCT/EP2004/014688	37 CFR 1.497(d)
International Filing Date: 23 December 2004	
Priority Date: 12 January 2004	
Attorney's Docket No.: D4700-00424	
For: DRAWER PULL-OUT GUIDE	

This decision is issued in response to the "Renewed Petition To Correct Inventorship, 37 CFR 1.497(d)(3)" filed 12 May 2009. Applicants have previously submitted the required $130 processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 16 April 2009. That decision dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, applicants had failed to provide the required consent of the assignee to the requested change.

On 12 May 2009, applicants filed the "Renewed Petition To Correct Inventorship, 37 CFR 1.497(d)(3)" considered herein.

DISCUSSION

The renewed petition was accompanied by a "Consent of Assignee To Correction Of Inventorship" in which the assignee, ALFIT AG, expressly agrees to the addition of Gunter GRABHER as an additional inventor herein, and this consent is submitted in compliance with the requirements of 37 CFR 3.73(b). Applicants have therefore satisfied the final requirement for a grantable request to correct inventorship under 37 CFR 1.497(d). The requested addition of Gunter GRABHER as an additional inventor of record pursuant to 37 CFR 1.497(d) is therefore appropriately granted.

Based on the above correction, the declaration filed 28 December 2006 is now acceptable in compliance with 37 CFR 1.497(d).

CONCLUSION

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

The inventorship of record herein is corrected to add Gunter GRABHER as an additional inventor of record herein.

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 28 December 2006.

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01 AUG 2006

Philipe Courty
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FRANCE

In re Application of COURTY	:	
U.S. Application No.: 10/585,398	:	
PCT Application No.: PCT/FR03/01220	:	
Int. Filing Date: 16 April 2003	:	DECISION
Priority Date Claimed: 16 April 2002	:	
Attorney Docket No.: (none)	:	
For: AUTOMATIC PERSONAL WEAPON WITH	:	
ELECTRONIC MANAGEMENT AND	:	
CASELESS AMMUNITIONS	:	

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 05 July 2006.

BACKGROUND

On 16 April 2003, applicant filed international application PCT/FR03/01220, which claimed priority of an earlier France application filed 16 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 16 October 2004.

International application PCT/FR03/01220 became abandoned as to the United States for failure to timely pay the basic national fee.

On 05 July 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 16 April 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 05 July 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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0 9 JUN 2008

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Kings Beach CA 96143-2926

In re Application of	:	
LI	:	
Application No.: 10/585,399	:	DECISION
PCT No.: PCT/US2005/001233	:	
Int. Filing Date: 13 January 2005	:	
Priority Date: 15 January 2004	:	
Attorney's Docket No.: 2222	:	
For: HIGH PERFORMANCE DVD	:	
WRITING CURRENT CIRCUIT	:	

This decision is in response to applicant's petition "PETITION FOR A FILING RECEIPT" filed 05 March 2008 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 13 January 2005, applicant filed international application PCT/US2005/001233, which designated the U.S. and claimed a priority date of 15 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 04 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2006 (15 July 2006 being a Saturday).

On 05 July 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 05 March 2008, applicant filed the instant petition, which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the application be forwarded for immediate issuance of a filing receipt. The petition was filed under 37 CFR 1.182 with the accompanying $400 fee. Since the

petition has properly been treated as a petition under 37 CFR 1.181, the $400 has been credited to Deposit Account 19-0735.

As noted above, the application papers filed 05 July 2006 are in the electronic file wrapper. These papers will be forwarded for processing. If the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) have been met, a NOTIFICATION OF ACCEPTANCE and a Filing Receipt will be issued. If these requirements have not been met, a NOTIFICATION OF MISSING REQUIREMENTS will be issued.

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for national stage processing of the application.

/Daniel Stemmer/

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17 AUG 2006

In re Application of	:	DECISION ON
SCHWAL et al	:	
Application No.: 10/585,401	:	
PCT No.: PCT/FR2004/002299	:	
Int. Filing Date: 10 September 2004	:	PETITION UNDER
Priority Date: 12 September 2003	:	
Attorney's Docket No.: 0532-1034	:	
For: DEVICE FOR ATOMIZING	:	
A LIQUID COMPOSITION	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed on 07 July 2006.

BACKGROUND

On 10 September 2004, this international application was filed. A copy of the intentional application was transmitted on 24 March 2005 to the USPTO from the International Bureau. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 March 2006. This international application became abandoned with respect to the United States at midnight on 12 March 2006 for failure to pay the required basic national fee.

On 07 July 2006, applicant filed in the United States Patent and Trademark Office (PTO) the current petition and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, an executed declaration, the national basic 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; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **07 July 2006.**

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/585420	08/28/06	Braj Bhushan Lohray	4062-192

DATE MAILED: January 14, 2010

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

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:

- ☐ 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.
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the request was filed after the 2 month time period. A grantable petition under 37 CFR 1.183 must be filed to waive the 2 month time period.

Any inquiries concerning this decision 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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

MAY 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi OKA, et al	:	
Application No. 10/585,457	:	DECISION ON PETITION
Filed: May 7, 2008	:	TO WITHDRAW
Attorney Docket No. SUZ0034-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 11, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

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

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

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

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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MUETING, RAASCH & GEBBARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

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SEP 02 2008

Applicant: Hannill, et al.
Appl. No.: 10/585,503
International Filing Date: January 9, 2004
Title: MECHANOSENSTITIVE ION CHANNELS AND METHODS OF USE
Attorney Docket No.: 265.0045 0101
Pub. No.: 2007/0190600 A1
Pub. Date: August 16, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 7, 2007, for the above-identified application.

The request is granted.

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

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

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

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James F Hann
Haynes Beffel & Wolfeld
P.O. Box 366
Half Moon Bay, CA 94019

Mail Date: 04/21/2010

Applicant	: Robert Graham Burrage	: DECISION ON REQUEST FOR
Patent Number	: 7584923	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **187** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ANDRUS, SCEALES, STARKE & SAWALL, LLP.
100 East Wisconsin Avenue,
Suite 11
Milwaukee, WI 53202

Mail Date: 04/21/2010

Applicant	: Gary Fairless Power	: DECISION ON REQUEST FOR
Patent Number	: 7652757	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Memduh Guney, et al.	:	
Application No. 10/585,514	:	DECISION GRANTING PETITION
Filed: September 26, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4398-567	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 13, 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 July 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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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	: Joachim Knittel	: DECISION ON REQUEST FOR
Patent Number	: 7633613	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **827** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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	: Xianli Hu	: DECISION ON REQUEST FOR
Patent Number	: 7616953	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,537	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,549	07/10/2006	Raymond William Kenneth Allen	M&C-06-5615	5868

7590 06/09/2009
Patent Group Attn. J.Kenneth Joung
DLA Piper Rudnick Gray Cary
203 N. LaSalle St. suite 1900
Chicago, IL 60601

EXAMINER
BUSHEY, CHARLES S

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
06/09/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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2 9 JAN 2009

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

In re Application of OUZMAN	:	
U.S. Application No.: 10/586,558	:	
PCT Application No.: PCT/GB2005/000183	:	DECISION
Int. Filing Date: 19 January 2005	:	
Priority Date Claimed: 21 January 2004	:	
Attorney Docket No.: 13425-194US1 BV-1092 US	:	
For: SYNTHESIS OF SPONGOSINE	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47(b)" filed 05 January 2009.

BACKGROUND

On 19 January 2005, applicant filed international application PCT/GB2005/000183, which claimed priority of an earlier United Kingdom application filed 21 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 04 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 21 July 2006.

On 19 July 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 June 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 January 2009, 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, the requisite fee will be charged to Deposit Account No. 06-1050 as authorized in the petition.

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 Jacqueline Ouzman 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 Dr. Ouzman for signature (see Exhibit A). Furthermore, the petition sufficiently illustrates Dr. Ouzman's refusal to sign. In particular, Dr. Ouzman's failure to return an executed declaration in response to the electronic mail message dated 13 April 2008 and her insistence on compensation before signing is deemed a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Dr. Ouzman 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, the declaration executed by the 1.47(b) application is improper. Specifically, the title "Head of Patent Dept." does not confer apparent authority to sign on behalf of the applicant. See MPEP 324, Section V.

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).

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. MPEP 409.03(f)

In the present case, applicant has furnished a copy of an employment agreement signed by the inventor. However, an affidavit signed by a person with firsthand knowledge of the making of the present invention by Dr. Ouzman during her term of employment with Cambridge Biotechnology Limited has not been submitted. It is emphasized that such affidavit must be signed by a person who personally observed Dr. Ouzman making the present invention.

With regard to item (6) above, an adequate statement regarding preservation of the rights of the parties and/or prevention of irreparable damage has been provided.

CONCLUSION

For the reasons above, 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 from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: JEFFREY MAYNARD
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

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APR 16 2008
OFFICE OF PETITIONS

In re Application of :
Thomas Sorensen :
Application No. 10/585,561 : ON PETITION
Filed: July 07, 2006 :
Attorney Docket No. 09992/00004 :

This is a decision on the renewed petition, filed January 31, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed October 02, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 03, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form corrected drawings; (2) the petition fee of $ 770; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

The application file is being referred to the Office of Patent Publication.

Chris Butler
for David Bucci
Petitions Examiner
Office of Petitions

08 SEP 2006

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of EL-SHARKWY, Abdel-Monem et al. Application No.: 10/585,570 PCT No.: PCT/US04/21642 Int. Filing Date: 07 July 2004 Priority Date: 07 July 2003 Docket No.: 26148.029.40 For: A RADIOMETRIC APPROACH TO TEMPERATURE MONITORING USING A MAGNETIC RESONANCE SCANNER	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 10 July 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 filing the search fee, examination fee or oath or declaration later than 30 months from the priority date will be charged to deposit account no. 50-0911, as authorized.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

09/08/2006 SBASHEIR 00000003 500911 10585570
01 FC:1617 130.00 DA

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MAY 01 2009
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Toshiki SHIMIZU et al.

Application No.: 10/585,573

Filed: July 10, 2006 Docket No.: 128707

Patent No.: 7,518,882

Issue Date: April 14, 2009

For: CIRCUIT MODULE

REQUEST UNDER 37 C.F.R. §1.81(b)

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

Sir:

Applicants respectfully request that the attached Certificate of Correction be entered under the provisions of 37 C.F.R. §3.81(b) to correctly identify the assignees on the front face of the patent.

The above-identified patent is assigned to Autonetworks Technologies, Ltd.; Sumitomo Wiring Systems, Ltd.; and Sumitomo Electric Industries, Ltd., by virtue of an Assignment recorded on July 10, 2006 at Reel 018068, Frame 0645. The Assignment was submitted for recordation prior to payment of the Issue Fee, but the company name for Assignee #3 was omitted in Box 3 on the Issue Fee Transmittal. Therefore, the incorrect assignee data was printed on the front face of the patent. This misidentification was inadvertent.

05/04/2009 JADDO2 00000066 7518882
01 FC:1811 100.00 OP
02 FC:1464 130.00 OP

Attached to this Request are:

1) A Request for Certificate of Correction under 37 C.F.R. §1.323.

2) Our Check No. 217804 in the amount of $230.00 in payment of the fees set forth in 37 C.F.R. §§1.17(i) and 1.20(a). If any additional fees are necessary, the U.S. Patent and Trademark Office is authorized to debit Deposit Account No. 15-0461; and

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Linda M. Saltiel
Registration No. 51,122

JAO:LCS/mcp

Date: May 1, 2009

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;
Charge any fee due to our Deposit Account No. 15-0461

MAY 01 2009
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,518,882

Issue Date: April 14, 2009

Inventor(s): Toshiki SHIMIZU; Kouichi TAKAGI; Fumiaki MIZUNO

Title: CIRCUIT MODULE

Docket No.: 128707

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 323

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.

Our Check No. 217792 in the amount of One Hundred Dollars ($100.00) is attached in accordance with the provisions of 37 C.F.R. §1.323 and §1.20(a). In the event of any underpayment or overpayment, please debit or credit Deposit Account No. 15-0461 as needed in order to ensure prompt issuance of a Certificate of Correction.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Linda M. Saltiel
Registration No. 51,122

JAO:LMS/mcp

Date: May 1, 2009

OLIFF & BERRIDGE, PLC
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DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
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 : 7,518,882

DATED : April 14, 2009

INVENTOR(S) : Toshiki SHIMIZU; Kouichi TAKAGI; Fumiaki MIZUNO

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

Please replace the following paragraph on the first page of the Patent:

(73) Assignees: Autonetworks Technologies, Ltd., Mie (JP)
Sumitomo Wiring Systems, Ltd., Mie (JP)

with

(73) Assignees: Autonetworks Technologies, Ltd., Mie (JP)
Sumitomo Wiring Systems, Ltd., Mie (JP)
Sumitomo Electric Industries, Ltd., Osaka (JP)

MAILING ADDRESS OF SENDER: OLIFF & BERRIDGE, PLC
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Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

PATENT NO. 7,518,882

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.

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

COPY MAILED
FEB 17 2010

In re Patent No. 7,518,882	:	
Issue Date: April 14, 2009	:	
Application No. 10/585,573	:	ON PETITION
Filed: July 10, 2006	:	
Attorney Docket No. 128707	:	

This is a decision on the petition filed May 1, 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) 272-3208. 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
APR 14 2010
OFFICE OF PETITIONS

In re Patent No. 7,579,636	:
Kazuya Uejma	: DECISION ON REQUEST FOR
Issue Date: August 25, 2009	: RECONSIDERATION OF
Application No. 10/585,576	: PATENT TERM ADJUSTMENT
Filed: August 23, 2006	: AND NOTICE OF INTENT
Attorney Docket No. 065686-0163	: TO ISSUE CERTIFICATE OF
Title: MIS-TYPE FIELD-EFFECT	: CORRECTION
TRANSISTOR	:

This is a decision on the petition filed on October 20, 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 four hundred twenty-eight (428) 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 twenty-eight (428) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred twenty-eight (428) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,636 B2

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Kazuya Uejma

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 380 days

Delete the phrase "by 380 days" and insert – by 428 days--

21

DATE 9/~~20~~/07

APPLICATION NUMBER 10/585,582

DOC CODE PG, OEC. OOPC

DOC DATE 9/21/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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

2 1 SEP 2007

Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of	:	
PARK	:	DECISION ON PETITION
Application No.: 10/585,586	:	
PCT No.: PCT/KR05/00133	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 14 January 2005	:	
Priority Date: 15 January 2004	:	
Atty Docket No.: 05-500-B	:	
For: ATM SWITCHED ROUTER FOR TRANSMITTING IP PACKET DATA	:	

This decision is in response to the "Petition Under 37 CFR § 1.47(b)" filed 15 June 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 January 2005, applicant filed international application PCT/KR05/00133, which claimed a priority date of 15 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 July 2006.

On 11 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and an Application Data Sheet.

On 16 April 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. 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 15 June 2007, 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(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant has satisfied items (1) and (3)-(6).

Regarding item (2), according to the enclosed declaration of Jiwon Lim, he attempted to mail a complete set of the application papers to the inventor. These papers were returned as they were mailed to an incorrect address. It assumed that since Mr. Lim then attempted to find a current address that the address originally mailed to was incorrect because the inventor no longer lived there. As such, applicant is required to show that a diligent effort was made to locate the missing inventor. As stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts." The statement of facts from Mr. Lim does not satisfy this item. Mr. Lim states that "All efforts to obtain his current address, phone number, or email address by using KOIS have failed to provide new information concerning the whereabouts of Mr. PARK." In addition, Mr. Lim states that he was unable to find an email address for Mr. Park using a well-known Korean web mail service using his residence identification information. However, Mr. Lim does not detail these efforts nor include copies of his search results. Mr. Lim does not provide an explanation of what the Korea Info Service Corporation is or how using old residence information would enable him to presently locate the inventor. A renewed petition under 37 CFR 1.47(b) should include the results of any internet or telephone directory searches which were performed in an effort to locate the non-signing inventor, as well as, an explanation of the searches by the party attempting to locate Mr. Park.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

24 OCT 2007

Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of	:	
PARK	:	DECISION ON PETITION
Application No.: 10/585,586	:	
PCT No.: PCT/KR05/00133	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 14 January 2005	:	
Priority Date: 15 January 2004	:	
Atty Docket No.: 05-500-B	:	
For: ATM SWITCHED ROUTER FOR	:	
TRANSMITTING IP PACKET DATA	:	

This decision is in response to the renewed petition under 37 CFR § 1.47(b) filed 10 October 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 21 September 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to proceed without the signature of inventor Jung He Park. Applicant was afforded two months to file any request for reconsideration.

On 10 October 2007, applicant responded with the present renewed petition.

DISCUSSION

As detailed in the decision mailed 21 September 2007, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1) and (3)-(6).

With the filing of the present renewed petition and supporting documentation, applicant has satisfied the remaining item. Specifically, applicant has provided additional information regarding the Korea Info Service Corporation and KOIS database. It is clear from the explanation and supporting exhibits that the database can be used to search for a current

residential mailing address in addition to email address. Thus, applicant has provided a proper showing that a diligent effort has been made to locate a current mailing address for Mr. Park. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 14 January 2005 under 35 U.S.C. 363, and will be given a date of **15 June 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: James William Griffith Turner	: DECISION ON REQUEST FOR
Patent Number	: 7587898	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

3 1 OCT 2008

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert C. Shaddox
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of	:	DECISION ON
KHABASHESKU et al	:	
PCT No.: PCT/US2005/001310	:	
Application No.: 10/585,591	:	
Int. Filing Date: 18 JAN 2005	:	PAPERS FILED
Priority Date: 21 JAN 2004	:	
Attorney's Docket No.: 11321-PO81WOUS	:	
For: NANOTUBE-AMINO... PREPARING SAME	:	UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC §371" filed 02 May 2008, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 July 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 20 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from date of mailing 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 20 February 2008, applicants filed on 02 May 2008 a declaration signed by Mary Lou Margrave as legal representative of the co-joint inventor now deceased John L. Margrave.

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the co-joint inventor John L. Margrave is deceased Mary Lou Margrave has been appointed as the legal representatives for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or 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 (the inventor's citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance the information provided below the signature of the legal representative appears to be that of the legal representative and not of the deceased co-joint inventor. As such, the declaration does not provide the necessary information for the deceased co-joint inventor. Thus, the citizenship, residence and mailing address of the deceased inventor has not been provided in the declaration as required as required under 37 C.F.R. §1.497(b)(2).

Moreover, the declaration is defective since it does not comply with 37 CFR 1.497(a)(3). A declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations, which one is incomplete since each set must be complete by having the correct number of pages and listing all the inventors. In this case only, one set is complete because it comprises of the four (4) pages of the declaration. The second set is incomplete because it only contains page 4 and does not have the other pages (1, 2 and 3) of the executed declaration. Therefore, the composite declaration is incomplete. In addition, the first set has been labeled as pages 1 of 3, 2 of 3, 3 of 3 and 4 of 4 (the last page), which is inconsistent with respect to proper numbering of the declaration.

Copies of the same page is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time 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 Administration Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

14 APR 2009

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Robert C. Shaddox
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of	:	DECISION ON
KHABASHESKU et al	:	
PCT No.: PCT/US2005/001310	:	
Application No.: 10/585,591	:	
Int. Filing Date: 18 January 2005	:	RENEWED REQUEST FILED
Priority Date: 21 January 2004	:	
Attorney's Docket No.: 11321-PO81 WOUS	:	
For: NANOTUBE-AMINO... PREPARING THE SAME	:	UNDER 37 CFR 1.42

This is a decision on the "RENEWED SUBMISSION UNDER 37 CFR 1.42" filed 22 December 2008.

BACKGROUND

In a decision from this Office dated 31 October 2008, the request filed on 02 May 2008 was not accepted.

On 22 December 2008, applicants filed a renewed request accompanied with, inter alia, an executed declaration concerning the blocks for deceased inventor John L. Margrave and his legal representative, Mary Lou Margrave.

DISCUSSION

The renewed submission includes, a newly executed declaration signed by Mary Lou Margrave as Legal Representative of the deceased inventor (John L. Margrave) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative.

However, in this instance, applicants have still not submitted a proper composite declaration. A declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. The current filed declaration consists of five (5) pages but pages 4 and 5 appear to be copies of the same page with the exception that the fifth page lists the deceased inventor. Page 4 lists Mary Lou Margrave (legal representative) and inventor Peng and has his signature but Page 5 also lists inventor Peng, and then lists John L. Margrave (deceased inventor) and Mary Lou Margrave (legal representative) and has the legal representative signature. As such, the executed declaration as currently filed is improper.

A composite executed declaration set must not repeat the names of the inventors in different pages as here with pages 4 and 5 because they are not part of a proper composite declaration. A proper composite declaration must have each set of the declaration complete with the proper statement and the names of all the inventors even though each set of the declaration may not have all the signatures of the inventors. However, the individual complete sets that taken as a whole form the composite declaration that would have all the required signatures as required under 37 CFR 1.497(a)(3).

At the present time the composite Declaration is improper.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or 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 "Second Renewed Submission 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 Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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

UNITED STATES PATENT and TRADEMARK OFFICE

2 7 OCT 2009

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Robert C. Shaddox
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

In re Application of	:	DECISION ON
KHABASHESKU et al	:	
Application No.: 10/585,591	:	
PCT No.: PCT/US2005/001310	:	
Int. Filing Date: 18 January 2005	:	RENEWED REQUEST FILED
Priority Date: 21 January 2004	:	
Attorney's Docket No.: 11321-PO81 WOUS	:	
For: NANOTUBE-AMINO... PREPARING THE SAME	:	UNDER 37 CFR 1.42

This is a decision on the "Second Renewed Submission Under 37 CFR 1.42" filed 15 June 2009.

BACKGROUND

In a decision from this Office on 14 April 2009, the request filed on 22 December 2008 was dismissed. The decision stated that declaration was improperly executed.

On 15 June 2009, 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**.

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 **15 June 2009**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

2 3 OCT 2009

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

In re Application of ITO et al. Application No.: 10/585,593 PCT No.: PCT/JP05/00171 In. Filing Date: 11 January 2005 Priority Date: 08 January 2004 Atty. Docket No.: NAII127769 For: COMPOUND HAVING CROSSLINKED POLYROTAXANE AND PROCESS FOR PRODUCING THE SAME	DECISION on REQUEST

This is in response to applicant's "Request for Refund" filed 19 August 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 July 2006, within the thirty month deadline, applicant filed a transmittal letter requesting national stage entry for international application No. PCT/JP05/00171 along with the basic national fee, search fee and examination fee. Applicant authorized the payment of any additional fees which may be required to be charged to his deposit account. The deposit account was charged $1460 in claims fees.

On 19 August 2009, applicant filed the instant request for refund of $992 for claim fees to his deposit account.

DISCUSSION

Applicant acknowledges payment of $900 for the basic national fee, examination fee and search fee.

On 10 July 2006, the USPTO charged of $1, 460 ($1100 for claims- extra total over 20 and $360 for claims-multiple dependent) to applicant's deposit account. It is the $992 amount for which applicant requests a refund.

MPEP 1893 states that "A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that is effective to cancel claims and/or eliminate 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.

A review of the application file indicates that a preliminary amendment was not filed with the request for entry into the national stage. Subsequently, on 16 June 2009, a preliminary amendment to the claims was filed. In light of MPEP 1893, the finance records for this application reveals the appropriate fees have been charged and the request for a refund is dismissed.

CONCLUSION

Based on the above, the refund of the Request For Refund is **DISMISSED WITHOUT PREJUDICE**. A review of the USPTO finance records indicates that the appropriate fees have been charged thus far.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
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Telephone: 571-272-3286

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06 JUL 2007

McDonnel Boehnen Hulbert & Berghorff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of
KIM, TAE HONG
Application No.: 10/585,602
PCT No.: PCT/KR05/00134
Int. Filing Date: 14 January 2005
Priority Date: 15 January 2004
Attorney Docket No.: 05-507-B
For: APPARATUS AND METHOD FOR DUALIZING AN ASYNCHRONOUS TRANSFER MODE (ATM) ROUTER IN A CDMA 2000 SYSTEM

DECISION ON PETITION

This decision is in response to applicant's "Petition under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor Who We Have Been Unable to Locate" filed 20 June 2007 to accept the application without the signature of inventor, Tae Hong Kim. The petition fee has been submitted.

BACKGROUND

On 14 January 2005, applicant filed international application PCT/KR05/00134 which claimed a priority date of 15 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 September 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 15 August 2006.

On 11 July 2006, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 16 March 2007, the United States Designated/Elected Office mailed "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 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 requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Items (1); (3); (4) and (6) under 37 CFR 1.47(b) have been satisfied.

Regarding item (2) above, petitioner states that Tae Hong Kim 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, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor, Tae Hong Kim. No documentary evidence to support the attempt(s) was provided with the declaration. It is noted that the "Declaration in Support of Petition under 37 CFR 1.47(b) . . . signed by Joo-Young Kim" was not included with the present petition.

Concerning item (5), petitioner has not demonstrated that applicant has a propriety

interest in the invention. It is noted that the "Memorandum of Law in Support of Petition under 37 CFR 1.47(b). . . signed by Joo-Young Kim" was not included with the present petition.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Tae Hong Kim under 37 CFR 1.47(b) at this time.

CONCLUSION

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

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

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

Anthony Smith

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07 AUG 2007

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In re Application of :
KIM, TAE HONG :
Application No.: 10/585,602 :
PCT No.: PCT/KR05/00134 : DECISION ON PETITION
Int. Filing Date: 14 January 2005 :
Priority Date: 15 January 2004 :
Attorney Docket No.: 05-507-B :
For: APPARATUS AND METHOD FOR DUALIZING AN ASYNCHRONOUS TRANSFER MODE (ATM) ROUTER IN A CDMA2000 SYSTEM

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor Who We Have Been Unable to Locate" filed 18 July 2007. The petition fee has been submitted.

BACKGROUND

On 14 January 2005, applicant filed international application PCT/KR05/00134 which claimed a priority date of 15 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 September 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 15 July 2006.

On 11 July 2006, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 16 March 2007, the United States Designated/Elected Office mailed "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 20 June 2007, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 06 July 2007, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 18 July 2007, applicant filed a renewed petition under 37 CFR 1.47(b).

DISCUSSION

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

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Tae Hong Kim. The steps taken are sufficient to show that the missing inventor, Tae Hong Kim, could not be reached after diligent effort.

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Tae Hong Kim assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has previously demonstrated a transfer of title from Hyundai to UTStarcomm. Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim which states that Hyundai would have title to the present invention instead of inventor Kim. Therefore, a chain of time from Tae Hong Kim to UTStarcomm has been sufficiently established.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Tae Hong Kim under 37 CFR 1.47(b) at this time.

CONCLUSION

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

The application will be given an international filing date of 14 January 2005 under 35 U.S.C. 363, and a date of 20 June 2007 under 35 U.S.C. 371(c).

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

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

Anthony Smith

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05 SEP 2006

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In re Application of	:	
SCHELLER et al.	:	
Application No.: 10/585,609	:	DECISION ON
PCT No.: PCT/EP2004/014656	:	
Int. Filing Date: 23 December 2004	:	PETITION UNDER
Priority Date: 24 December 2003	:	
Attorney Docket No.: 6012-000013/US/NP	:	37 CFR 1.137(b)
For: USE OF SUBSTITUTED 2-AMINOTETRALINS	:	
FOR PREVENTIVE TREATMENT OF	:	
PARKINSON'S DISEASE	:	

This decision is in response to applicant's submission filed 10 July 2006.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/EP2004/014656 which designated the U.S. and claimed a priority date of 24 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2006.

On 10 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 10 July 2006.

As to item (2), applicant submitted the petition fee on 10 July 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 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.

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7700 BONHOMME, STE 400
ST. LOUIS MO 63105

In re Application of	:	
SCHELLER et al.	:	
Application No.: 10/585,609	:	DECISION ON
PCT No.: PCT/EP2004/014656	:	
Int. Filing Date: 23 December 2004	:	PETITION UNDER
Priority Date: 24 December 2003	:	
Attorney Docket No.: 6012-000013/US/NP	:	37 CFR 1.497(d)
For: USE OF SUBSTITUTED 2-AMINOTETRALINS	:	
FOR PREVENTIVE TREATMENT OF	:	
PARKINSON'S DISEASE	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 12 March 2007, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 23 December 2004, applicant filed international application PCT/EP2004/014656 which designated the U.S. and claimed a priority date of 24 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2006.

On 10 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a petition under 37 CFR 1.137(b) to revive the application.

On 05 September 2006, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b).

On 11 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 12 March 2007, applicants filed the instant submission which has properly been treated as a petition under 37 CFR 1.497(d). The petition is accompanied by a statement by Frank Dressen, a declaration, 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) has been satisfied.

As to item (2), the petition fee of $130 has been charged to Deposit Account 08-0750.

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

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

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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1 1 FEB 2008

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In re Application of	:	
SCHELLER et al.	:	
Application No.: 10/585,609	:	DECISION ON
PCT No.: PCT/EP2004/014656	:	
Int. Filing Date: 23 December 2004	:	PETITION UNDER
Priority Date: 24 December 2003	:	
Attorney Docket No.: 6012-000013/US/NP	:	37 CFR 1.497(d)
For: USE OF SUBSTITUTED 2-AMINOTETRALINS	:	
FOR PREVENTIVE TREATMENT OF	:	
PARKINSON'S DISEASE	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 24 January 2008.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/EP2004/014656 which designated the U.S. and claimed a priority date of 24 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2006.

On 10 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a petition under 37 CFR 1.137(b) to revive the application.

On 05 September 2006, a decision was mailed granting applicant's petition to revive under 37 CFR 1.137(b).

On 11 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 12 March 2007, applicant filed a submission which was properly treated as a petition under 37 CFR 1.497(d). The petition was accompanied by a statement by Frank Dressen, a declaration, and the surcharge under 37 CFR 1.492(h).

On 08 August 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.497(d) because it was not clear whether an assignment had been made, and if an assignment had been made, consent of the assignee and a showing under 37 CFR 3.73(b) were required.

On 24 January 2008, applicant filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by a petition/fee for a four-month extension of time, a consent of assignee statement, and a showing under 37 CFR 3.73(b).

DISCUSSION

37 CFR 1.497(d), provides:

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

As noted in the decision mailed 08 August 2007, items (1) and (2) have been satisfied and item (3) was not required.

Item (3) has now been satisfied.

The declaration of the inventor filed 12 March 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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 Dieter Scheller as inventor.

/Daniel Stemmer/

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Ye Liu	: DECISION ON REQUEST FOR
Patent Number	: 7666650	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,620	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **363** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

2 1 AUG 2009

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CLARK HILL, P.C.
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DETROIT, MI 48226

In re Application of LIN et al	:	
U.S. Application No.: 10/585,628	:	
PCT Application No.: PCT/CA2005/000152	:	
Int. Filing Date: 07 February 2005	:	DECISION
Priority Date Claimed: 06 February 2004	:	
Attorney Docket No.: 19339-106126	:	
For: TRIM DOOR HARDWARE CARRIER AND	:	
METHODS OF ASSEMBLING VEHICLE DOOR	:	

This is in response to applicant's petition under 37 CFR 1.47(a) filed 15 June 2009.

BACKGROUND

On 07 February 2005, applicant filed international application PCT/CA2005/000152, which claimed priority of an earlier United States application filed 06 February 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 18 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 August 2006.

On 11 July 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 16 April 2009, 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 15 June 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declarations filed with the petition are improper. In particular, it is not sufficient to submit a fragment (i.e. a signature page) of a declaration. Furthermore, it is not acceptable to combine fragments (i.e. signature pages) of different copies of a declaration into a single document for submission. Applicant must submit either: (1) a single complete declaration which is presented to and executed by all of the available inventors or (2) multiple complete declarations, wherein each available inventor executes at least one of the multiple complete declarations.

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, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> * * *
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The

> document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which 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.

The petition states that joint inventor Manfred Fritsch cannot be reached. However, it appears that the letter dated 30 January 2007 was successfully delivered to inventor Fritsch's forwarding address. Thus, it would not be reasonable to conclude that inventor Fritsch cannot be located. It is noted that petitioner has not alleged that inventor Fritsch refuses to sign.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, although the petition states the last known address of the nonsigning inventor is "144 Country Lane, Ringgold, GA 30736", correspondence sent to that address could not be delivered. Furthermore, correspondence sent to "P.O. Box 37, St. John, VI 00831-0037" was delivered successfully. Therefore, petitioner should explain why "144 Country Lane, Ringgold, GA 30736" is still believed to be inventor Fritsch's last known address.

CONCLUSION

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

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

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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15 DEC 2009

CLARK HILL, P.C.
500 WOODWARD AVENUE, SUITE 3500
DETROIT, MI 48226

In re Application of LIN et al	:	
U.S. Application No.: 10/585,628	:	
PCT Application No.: PCT/CA2005/000152	:	
Int. Filing Date: 07 February 2005	:	DECISION
Priority Date Claimed: 06 February 2004	:	
Attorney Docket No.: 19339-106126	:	
For: TRIM DOOR HARDWARE CARRIER AND	:	
METHODS OF ASSEMBLING VEHICLE DOOR	:	

This is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 21 October 2009.

BACKGROUND

On 07 February 2005, applicant filed international application PCT/CA2005/000152, which claimed priority of an earlier United States application filed 06 February 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 18 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 August 2006.

On 11 July 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 16 April 2009, 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 15 June 2009, applicant filed a petition under 37 CFR 1.47(a).

On 21 August 2009, this Office mailed a decision dismissing the 15 June 2009 petition.

On 21 October 2009, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the renewed petition is accompanied by declarations executed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which 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.

The petition states that joint inventor Manfred Fritsch 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 Fritsch and that Fritsch received such papers (see letter dated 30 January 2007 and copy of delivery confirmation receipt). Furthermore, the petition sufficiently illustrates that Fritsch refuses to sign. In particular, Fritsch's failure to respond to the 30 January 2007 letter evidences a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Fritsch refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the renewed petition states the last known address of the nonsigning inventor.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 07 February 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 October 2009.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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ALEXANDRIA, VA 22313-1450
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15 DEC 2009

Manfred Fritsch
P.O. Box 37
St. John, VI 00831-0037

In re Application of LIN et al
U.S. Application No.: 10/585,628
PCT Application No.: PCT/CA2005/000152
Int. Filing Date: 07 February 2005
Priority Date Claimed: 06 February 2004
For: TRIM DOOR HARDWARE CARRIER AND METHODS OF ASSEMBLING VEHICLE DOOR

Dear Manfred Fritsch:

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

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

CLARK HILL, P.C.
500 WOODWARD AVENUE, SUITE 3500
DETROIT, MI 48226
Attorney Docket No.: 19339-106126

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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CST

September 29, 2009

In re application of Toshiki Ito et al Serial No. 10/585,644 Filed: July 7, 2006 For: NEAR-FIELD EXPOSURE MASK, METHOD OF PRODUCING THAT MASK, NEAR-FIELD EXPOSURE APPARATUS HAVING THAT MASK	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed July 21, 2009.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

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

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

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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MAIL

AUG 24 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
YAMAMOTO, MASAHITO et al.	:	DECISION ON REQUEST TO
Application No. 10/585,645	:	PARTICIPATE IN PATENT
Filed: July 07, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.522517.	:	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 July 08, 2009, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

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

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

The request to participate in the PPH program and petition are dismissed as moot as the examination of the above-identified application has begun. An Office Action was mailed on August 4, 2009.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

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

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

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,655	07/07/2006	Susumu Takumai	YAMA-0134	5541

37013 7590 03/12/2010
ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn, VA 20147

EXAMINER
FAULK, DEVONA E

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
03/12/2010	ELECTRONIC

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

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

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

ptomail@rkmlegalgroup.com

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MAR 1 1 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn VA 20147

In re Application of:	:	
TAKUMAI, SUSUMU et al	:	DECISION ON PETITION TO
Application Serial No.: 10/585,655	:	WITHDRAW RESTRICTION
Filed: July 07, 2006	:	REQUIREMENT UNDER
For: **SPEAKER SYSTEM**	:	37 CFR 1.144

This is a decision on the petition filed January 17, 2010, under 37 CFR § 1.181 requesting withdrawal of the restriction requirement issued by the examiner on April 03, 2009; traversed by applicants in a response filed July 03, 2009; and maintained by the examiner in an Office action dated September 16, 2009. The petition is treated under 37 CFR § 1.144.

An election of species requirement was mailed on April 03, 2009 apparently setting forth restriction between four species of invention. (It is noted that the examiner divided the species based upon claims rather then figures or disclosed embodiments.)

A response to the requirement was timely filed and received in the Patent and Trademark Office (PTO) on July 03, 2009, wherein applicants elected to prosecute the claims of Species directed to Figures 2A-2C with traverse and indicated all claims 1-13 read on the elected species. Applicants argued in the response "(1) this is an improper Species requirement and (2) it is incomplete to the extent that the examiner is requiring applicant to elect only a single claim under each of the generic claims. Indeed, applicants take an Official Notice that it is improper to require applicants to select between claims in a Species requirement. Note also that the examiner does not address claims 9 -13. Requiring an election of species based only on the claims is facially improper as the claims themselves are never species. See MPEP § 806.04(e). If the examiner meant to restrict between the illustrated embodiments, the examiner should properly issue species restriction based on the illustrated embodiments."

Applicants go on to argue in the response "As set forth in MPEP § 806.04(f), restriction based on species can be applied only if claims identified by the examiner are mutually exclusive. Different species are mutually exclusive if one claim recites a limitation that is found in the first species but not in a second, while a second claim recites a limitation found only in the second species and not in the first species. Here, claims 1-13 are not

mutually exclusive, because all of the features set forth in claims 1-13 are found in the embodiment of Figs. 2A-2C. "

Petitioner seeks relief by filing the instant petition requesting that the restriction requirement be withdrawn or modified.

OPINION

Petitioner contends that the proposed species requirement of April 03, 2009 failed to properly set forth species as defined in MPEP 806.04(e). Further, the petitioner argues, "as explained in the first Election, restriction based on species can be applied only if claims identified by the examiner are mutually exclusive. See MPEP § 806.04(f). Different species are mutually exclusive if one claim recites a limitation that is found in the first species but not in a second, while a second claim recites a limitation found only in the second species and not in the first species."

A review of the record finds that the application is filed under 35 USC 371 in which case *37 CFR 1.499 Unity of invention during the national stage* is applicable in lieu of restriction practice pursuant to 37 CFRT 1.141 – 1.146. As stated in MPEP 1893.03(d), "When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group." The examiner, in making the lack of unity requirement first noted that the claims are directed to four species. The examiner went on to state the, "The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features ...". The examiner then reproduced the limitations of claims 2, 3, and 4 with respect to independent claim 1 and then reproduced the limitations of claims 6, 7, 8, and 9 with respect to independent claim 5 as evidence of four different groups of unique special technical features.

Upon review of the claims as divided by the examiner, the four different "special technical features" defined by the examiner appear to all be linked to the same inventive concept. For instance, since claim 3 and claim 4 are both dependent upon claim 2, by default the inventive concept of claim 2 is not unique to claims 3 and 4 and thus equally applies to claims 3 and 4. The same goes for the four different "special technical features" examiner alleges are defined by claims 6-9 claim. Since claims 6-9 are all dependent upon claim 5, by default the inventive concept of claim 5 is not unique to claims 6-9 and thus equally applies to claims 6-9.

Furthermore, an election of species is proper if the species in question are mutually exclusive. Note MPEP 806.04(f) *Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive.< Claims ** to different species **>are mutually exclusive if< one claim recites limitations **>disclosed for< a first species but not * a second, while a second claim recites limitations disclosed only for the second species and not the first. This **>may*

*also be< expressed by saying that >to require restriction between claims limited to species, the< claims ** must not overlap in scope<.* The examiner has not provided any explanation as to how the four different species are mutually exclusive. A review of claims 1-9 in light of what is disclosed (see disclosure of Figures 2A-2C) indicates the four alleged species may overlap in scope and are thus not mutually exclusive. Therefore the lack of unity requirement is improper.

CONCLUSION

For the above stated reasons, the petition to withdraw the lack of unity requirement is **GRANTED**.

The application file is being forwarded to the examiner for a new and appropriate action, in due course.

John L. LeGuyader, Director
Technology Center 2600
Communications

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31 JUL 2006

James F. Kemp
Rader, Fishman & Grauer, PLLC
39533 Woodward Avenue, Suite 140
Bloomfield Hills, MI 48304

In re Application of ROSENSPIRE, et al. Application No.: 10/585,677 PCT No.: PCT/US04/17931 Int. Filing Date: 07 June 2004 Priority Date: 06 June 2003 Atty. Docket No.: 66174-0006 For: METHODS AND APPARATUS FOR CONVERSION OF EUKARYOTIC CELLS BY APPLICATION OF ELECTRIC AND MAGNETIC FIELDS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

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

06 SEP 2006

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Brian J pangrle
Lee Hayes PLLC
421 W Riverside Avenue
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In re Application of	:	DECISION ON
Udi Chatow et al	:	
Application No.: 10/585,681	:	
PCT No.: PCT/IL03/01035	:	
Int. Filing Date: 08 December 2003	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: 200311091-2	:	
For: PRINTING OF IMAGES WITH SELECTIVE	:	
GLOSS AND TONERS THEREFOR	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.137(B) AND NATIONAL PHASE APPLICATON UNDER 35 USC 371," filed on 10 July 2006.

BACKGROUND

On 08 December 2003, this international application was filed. A copy of the international application was transmitted to the United States from the International Bureau on16 June 2005. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 05 June 2006. This international application became abandoned with respect to the United States at midnight on 05 June 2006 for failure to pay the required basic national fee.

On 10 July 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,681	07/10/2006	Udi Chatow	200311091-2	4703

22879 7590 09/21/2009
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
BURNEY, RACHEL L

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
09/21/2009	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusek@hp.com

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United States Patent and Trademark Office
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bc

Mailed: SEP 21 2009

In re application of	:	
Chatow et al.	:	DECISION ON
Serial No. 10/585,681	:	PETITION
Filed: July 10, 2006	:	

For: PRINTING OF IMAGES WITH SELECTIVE GLOSS AND TONERS THEREFORE

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed December 24, 2008.

On September 16, 2008, the examiner made a restriction requirement under 35 USC 121 and 372 based upon a finding that the claims lack unity of invention as defined in PCT Rules 13.1 and 13.2. In a response to the requirement filed on October 15, 2008, Applicants traversed the requirement with respect to Groups I and III. The examiner maintained the restriction requirement in an office action mailed on December 24, 2008 and made the requirement final.

The instant petition was filed on March 19, 2009 requesting that the requirement for restriction between Groups I and III be withdrawn. Petitioner argues that the restriction between Groups I and III is improper because claim 34 (Group III) expressly requires the limitations of claim 1 (Group I) by specific reference to claim 1 (see line 5 of claim 34). The Petitioner further argues that Vanbesien et al. cannot be relied on to break unity of invention because it fails to disclose a liquid toner, which is deemed to be a shared common technical feature of the Groups.

DECISION

The instant application has been filed under 35 USC 371 as a national phase application of PCT/IL03/01035 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. MPEP 1893.03(d) permits groupings of claims which are linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding technical feature.

The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, considered as a whole, makes over the prior art."

Group I and Group III do share a common technical feature, i.e. the matte liquid toner of claim 1. However, the non-final office action of December 24, 2009 set forth an anticipation rejection of claim 1 over prior art, i.e. Vanbesien et al. (USPN 6,562,541). Thus, the holding of lack of unity of inventions is deemed to be proper, because the shared technical features do not make a contribution over the prior art as required by PCT Rule 13.2.

Accordingly, the petition to withdraw the restriction requirement is **DENIED.** It is noted however, that if at such time a determination is made that the common technical feature is not disclosed by the prior art, withdrawal of said holding and rejoinder of the claims of Group III would be appropriate.

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

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07 JUN 2007

Patricia A. Sheehan
Cesari and McKenna
88 Black Falcon Avenue
Boston MA 02210

In re Application of	:	DECISION ON
Paolo Falcioni et al	:	
Application No.: 10/585,711	:	
Prirority Date: 11 July 2005	:	PETITION UNDER
Attorney's Docket No.: 108041-19	:	
For: DEVICE FOR MONITORING	:	
AN ELECTRIC APPLIANCE	:	UNDER 37 CFR 1.182

This is in response to applicants' submission, "PETITION TO COMMISSIONER UNDER 37 C.F.R. 1.182," filed 10 July 2006. The petition requests the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a). The $400.00 petition fee has been charged to Attorney's Docket No.: 03-1237.

BACKGROUND

On 11 July 2005, applicants filed European Patent Application EPO5425500.5.

On 10 July 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*, a copy of the European application. However, no executed declaration or oath was submitted at such time.

On 19 January 2007, applicants filed a petition to convert the above national stage application filed under 37 USC 371 to an application filed under 35 USC 111(a).

DISCUSSION

Applicants state that this application was inadvertently filed along without deceptive intent using form PTO-1390, national stage transmittal letter. A review of the file reveals that 35 U.S.C. 371 was improper for this application because it is not based upon a PCT application, but rather upon a European patent application No. 05425500.5, with a filing date of 11 July 2005, and that there is no PCT number or international filing date to report. This application should not be treated as a national stage application under 35 U.S.C. 371. Accordingly, it would be appropriate to consider the conversion of the application to an application under 35 U.S.C. 111(a) at this time.

Applicant's petition to convert the application from a filing under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a) can be granted. A certified copy of any priority document must be filed in order to obtain priority benefit under 35 U.S.C. 119.

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b) (May 29, 2000) may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111 and ending on the mailing date of this decision. See 37 CFR 1.704(a).

CONCLUSION

The petition under 37 CFR 1.182 for reasons noted above is **GRANTED**. The 35 U.S.C. 111(a) filing date is **10 July 2006.**

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite1200
Washington, DC 20006

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of
ESTIBALIZ BEAR CHINEA ET AL.
Application No. 10/585,713
Filed: July 25, 2008
Attorney Docket No. **2003P19141**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 31, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 87133 has been revoked by the applicants of the patent application on June 10, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Gero Schollmeier, et al.
Application No. 10/585,714
Filed: July 11, 2006
Attorney Docket No. 039090-00069

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 31, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

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

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 MAR 2007

23908
RENNER OTTO BOISELLE & SKYLAR, LLP
1621 Euclid Ave.
Nineteenth Floor
Cleveland, OH 44115

In re Application of :
CHERNYSH *et al* :
U.S. Application No.: 10/585,715 :
PCT No.: PCT/RU04/00541 :
Int. Filing Date: 30 December 2004 : **DECISION**
Priority Date: 15 January 2004 :
Attorney Docket No.: SPSUP0100WOUS :
For: ANTITUMORAL AND ANTIVIRAL :
PEPTIDES :

This decision is in response to applicants' petition Under 37 CFR 1.47(a) filed 25 January 2007.

BACKGROUND

On 18 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 25 January 2007, applicants filed a response which was accompanied by, *inter alia*, a declaration signed by one of the two named inventors and a statement by Sergey I. Chernysh.

DISCUSSION

Applicants claim that joint inventor German P. Bekker refuses to cooperate in the above-identified application and have filed a petition under 37 CFR 1.47 in response to the Form PCT/DO/EO/905 mailed 18 January 2007.

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

Concerning item (1), the petition fee of $200.00 has been paid.

With regards to item (3), the last known address of co-inventor German P. Bekker is listed as:

Ozernaya 30
Building 2, App. 44
119361 Moscow, Russia

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Hence, items (1), (3) and (4) of 37 CFR 1.47(a) are complete.

Regarding item (2), applicants' submitted a declaration by co-inventor Sergey I. Chernysh who states that he presented "the application papers for execution to Mr. Bekker on 05.24.2006 at St. Petersburg Russia. Mr. Bekker refused to sign the documents." No other evidence was provided.

Section 409.03(d) of the MPEP discusses a refusal to join and 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. . . .
>
> 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.

It is not clear whether Mr. Chernysh presented a complete copy of the application papers including specification, claims, drawings and the declaration to the nonsigning inventor. Petitioners did not provide a copy of what was presented to Mr. Bekker and the statement by Mr. Chernysh is not specific enough. A declaration by Mr.

Chernysh explaining what was presented to the nonsigning inventor along with a copy of those documents is required for the refusal to be accepted under these facts.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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United States Patent and Trademark Office
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2 8 AUG 2007

23908
RENNER OTTO BOISELLE & SKYLAR, LLP
1621 Euclid Ave.
Nineteenth Floor
Cleveland, OH 44115

In re Application of	:	
CHERNYSH *et al*	:	
U.S. Application No.: 10/585,715	:	
PCT No.: PCT/RU04/00541	:	
Int. Filing Date: 30 December 2004	:	**DECISION**
Priority Date: 15 January 2004	:	
Attorney Docket No.: SPSUP0100WOUS	:	
For: ANTITUMORAL AND ANTIVIRAL	:	
PEPTIDES	:	

This is a decision on the papers filed on 14 May 2007 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 20 March 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 14 May 2007, applicants filed the renewed petition which was accompanied by a declaration executed by all named inventors.

DISCUSSION

Applicants previously claimed that Mr. German P. Bekker refused to execute a declaration in the above-captioned application. As such, a petition under 37 CFR 1.47(a) was submitted.

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

No further action on the petition under 37 CFR 1.47(a) is required.

CONCLUSION

For the reason discussed above, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C.

10/585,715

371(c). The application has an international filing date of 30 December 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 May 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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

JUL 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Carl T. BRIGHTON	:	
Application No. 10/585,718	:	DECISION ON PETITION
Filed: January 9, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. UPN-4914	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 8, 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 photocopy of Applicant Carl T. Brighton driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being returned to Technology Center Art Unit 3766 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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1 0 OCT 2007

45323
NATIONAL INSTITUTES OF HEALTH
C/O VENABLE LLP
P.O. BOX 34385
Washington, DC 20043-9998

In re Application of
RIED *et al*
U.S. Application No.: 10/585,725
PCT No.: PCT/US2005/000891
Int. Filing Date: 12 January 2005
Priority Date: 12 January 2004
Attorney Docket No.: 31978-233041
For: COMPOSITIONS FOR DETECTING THE RESPONSE OF RECTAL ADENOCARCINOMAS TO RADIOCHEMOTHERAPY

DECISION

This decision is in response to the papers filed 06 September 2007 which are treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 23 May 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. The notice stated that the current declaration did not identify the application properly. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 17 July 2007, applicants responded that a declaration filed pursuant to PCT Rule 4.17(iv) was filed in the international application.

On 21 August 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) as it did not identify the application to which it was directed.

On 06 September 2007, applicants filed the subject response claiming that the declaration filed in the international application identified the application using the attorney docket number.

DISCUSSION

The issue here is whether the declaration filed in PCT/US2005/000891 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 top left corner of the declaration bears the attorney docket number.

MPEP section 602(VI) *Identification of Application* sets forth the various forms of information that are considered adequate to identify the specification to which a declaration is directed. It is noted that the relevant MPEP provision refers specifically to the "attorney docket number which was on the specification as filed" 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 international application confirms that the attorney docket number is listed thereon. Accordingly, the PCT Rule 4.17(iv) declaration does adequately identify the specification to which it is directed.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The declaration filed in the international application pursuant to PCT Rule 4.17(iv) is in compliance with 37 CFR 1.497(a) and (b).

The Form PCT/DO/EO/905 mailed 23 May 2007 and the Form PCT/DO/EO/916 mailed 21 August 2006 are both **VACATED**. No surcharge fee is required.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 January 2005 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 July 2006.

10/585,725

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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United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Hakan Fortell	: DECISION ON REQUEST FOR
Patent Number	: 7620478	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **486** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

31 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Collin W. Park
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

In re Application of	:	
HUR, et al.	:	DECISION ON PETITION
Application No.: 10/585,737	:	
PCT No.: PCT/KR04/01576	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 29 June 2004	:	
Priority Date: 10 December 2003	:	
Atty. Docket No.: 064991-5006	:	
For: ELEVATOR TRACTION MACHINE	:	

The petition to revive under 37 CFR 1.137(b) filed 12 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

Derek A. Putonen
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17 Battery Place
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New York, NY 10004

Mail Date: 05/04/2010

Applicant	: Masahiro Noguchi	: DECISION ON REQUEST FOR
Patent Number	: 7660603	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/585,750	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

0 6 MAR 2007

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H. Warren Burnam, Jr.
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	
LARSSON, et al.	:	
Application No.: 10/585,787 (11/659,793)	:	
PCT No.: PCT/EP04/14668	:	DECISION ON PETITION
Int. Filing Date: 23 December 2004	:	
Priority Date: 30 December 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 4208-51	:	
For: METHOD AND ARRANGEMENT IN WIRELESS	:	
AD HOC OR MULTIHOP NETWORKS	:	

The petition to revive under 37 CFR 1.137(b) filed 09 February 2007 in the papers assigned application number 11/659,793 is hereby **GRANTED** as follows:

Regarding applicant's request for transfer of fees. The request is denied as unnecessary. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper. The originally filed papers assigned serial number 10/585,787 remains the U.S. national stage application for international application PCT/EP04/14668 and the petition to revive is considered filed in that application. Serial number 11/659,793 will be discontinued and applicant should continue to refer to application number 10/585,787.

Applicant's statement that "the entire delay from when the national phase was schedule to be filed and the filing of this application 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 statement of unintentional delay 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 1) the placing of the papers filed on 09 February 2007 and assigned serial number 11/659,793 in application number 10/585,787, 2) transferring the petition fee paid on 09 February 2007 to application 10/585,787 and 3) the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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03/06/2007 SBASHEIR 00000002 10585787
01 FC:1453 1500.00 OP

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22 APR 2008

23368
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In re Application of EVERTON, Michael U.S. Application No.: 10/585,795 PCT No.: PCT/AU2005/000049 Int. Filing Date: 17 January 2005 Priority Date: 15 January 2004 Attorney Docket No.: WOD 0001 PA For: WATER PURIFICATION PLANT	**DECISION**

This decision is in response to the petition under 37 CFR 1.182 filed on 10 April 2008.

BACKGROUND

On 13 July 2006, applicants filed a national stage application listing the international application number on the transmittal letter (Form PTO-1390) as PCT/US2005/000049.

On 16 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) requesting a declaration and English translation. The international application was recorded on the Form PCT/DO/EO/905 as PCT/US2005/000049.

On 16 May 2007, applicants filed a response to the Form PCT/DO/EO/905 requesting to change the PCT number listed on the transmittal letter to PCT/AU2005/000049. An executed declaration was also submitted.

On 10 April 2008, applicants submitted the subject petition under 37 CFR 1.182 after a telephone call from the undersigned.

DISCUSSION

Applicants petition to correct the PCT number to PCT/AU2005/000049 in the subject national stage application. Applicants state that the transmittal letter had a typographical error incorrectly identified the underlying PCT application as PCT/US2005/000049.

10/585,795

This request is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been paid.

A review of the above-captioned application file verifies that the wrong international application number, PCT/US2005/000049, was designated on the transmittal letter filed 13 July 2006. All other indications on the transmittal letter including the name of the first inventor, the title, priority date and the international filing date correspond to PCT/AU2005/000049. The Application Data Sheet submitted with the application also corresponds to PCT/AU2005/000049.

As such, it is clear that the subject application was intended to be filed as the national stage of PCT/AU2005/000049.

CONCLUSION

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

The above-captioned application is the national stage of PCT/AU2005/000049 filed 17 January 2005 and claiming priority to an Australian patent application filed 15 January 2004.

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

James Thomson

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0 5 MAY 2008

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MINNEAPOLIS MN 55402-2100

In re Application of	:	
Muller et al.	:	
Application No.: 10/585,796	:	
PCT No.: PCT/IB2005/050048	:	
Int. Filing Date: 05 January 2005	:	DECISION
Earlier Priority Date: 12 January 2004	:	
Attorney Docket No.: 3645.03US01	:	
For: Safety System For Electrostimulation Device	:	

The petition to revive under 37 CFR 1.137(b) filed on 13 July 2006 (a copy of which was filed on 05 March 2008) in the above-captioned application is hereby **GRANTED** as follows:

As a preliminary matter, the 05 March 2008 submission characterizes the attached petition as a "Copy of previously filed Petition for Unintentional Abandonment" (allegedly filed on 13 July 2006) and provides a copy of a return postcard receipt which itemizes (*inter alia*) the petition and is stamped as "Rec'd PCT/PTO 13 JUL 2006." MPEP 503 states in part that

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Following the policy described at MPEP 503, the instant petition (filed on 05 March 2008) is being regarded as a copy of the petition originally filed on 13 July 2006 and itemized on the postcard receipt.

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 applicant has filed the required reply in the form of the basic national fee, and the petition fee has also been paid. 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.

Inspection of the declaration filed on 13 July 2006 reveals that it is made on a dual-language form which does not bear markings indicating that it was provided by the USPTO. 37 CFR 1.69(b) states that

> Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under §1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

Since the declaration does not appear to include, or be accompanied by, a statement that the translation is accurate, it would not be appropriate to accept it at this time.

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), the surcharge under 37 CFR 1.492(h), and the processing fee under 37 CFR 1.492(i)(since the English translation was filed late).

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SCHIFF HARDIN, LLP
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CHICAGO IL 60606-6473

In re Application of	:	
FLEISCHER	:	
Application No.: 10/585,809	:	DECISION ON PETITION
PCT No.: PCT/EP2005/000745	:	
Int. Filing Date: 26 January 2005	:	UNDER
Priority Date: 26 January 2004	:	
Attorney Docket No.: P06,0247	:	37 CFR 1.497(d)
For: METHOD, DEVICE, COMPUTER	:	
SYSTEM AND COMPUTER PROGRAM	:	
PRODUCT FOR CONTROLLING A	:	
MATERIAL FLOW	:	

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 17 September 2007, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 26 January 2005, applicant filed international application PCT/EP2005/000745, which designated the United States and claimed a priority date of 26 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 29 September 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2006.

On 13 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 02 April 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 13 April 2007, applicant filed the surcharge under 37 CFR 1.492(h) and a declaration of inventors identifying and executed by five inventors.

On 27 August 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that four of the five inventors listed on the declaration are not listed in the international application.

On 17 September 2007, applicants filed the instant submission which has properly been treated as a petition under 37 CFR 1.497(d). The petition was accompanied by statements by Uve Czempik, Wolfram Keil, Christian Reckzeh, and Markus Wimmer, a consent of assignee statement, and the surcharge under 37 CFR 1.492(h).

DISCUSSION

37 CFR 1.497(d), provides:

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

Applicants have satisfied items (1) and (2). Item (4) is not required.

Item (3) has not been satisfied. Although a consent of assignee statement has been provided, no showing under 3.73(b) has been provided. See MPEP § 324, item II.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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

In re Application of	:	
FLEISCHER et al.	:	
Application No.: 10/585,809	:	DECISION ON PETITION
PCT No.: PCT/EP2005/000745	:	
Int. Filing Date: 26 January 2005	:	UNDER
Priority Date: 26 January 2004	:	
Attorney Docket No.: P06,0247	:	37 CFR 1.497(d)
For: METHOD, DEVICE, COMPUTER	:	
SYSTEM AND COMPUTER PROGRAM	:	
PRODUCT FOR CONTROLLING A	:	
MATERIAL FLOW	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.497(d) filed 11 January 2008.

BACKGROUND

On 26 January 2005, applicant filed international application PCT/EP2005/000745, which designated the United States and claimed a priority date of 26 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 29 September 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2006.

On 13 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 02 April 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 13 April 2007, applicant filed the surcharge under 37 CFR 1.492(h) and a declaration of inventors identifying and executed by five inventors.

On 27 August 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that four of the five inventors listed on the declaration are not listed in the international application.

On 17 September 2007, applicants filed a submission which was properly treated as a petition under 37 CFR 1.497(d). The petition was accompanied by statements by Uve Czempik, Wolfram Keil, Christian Reckzeh, and Markus Wimmer, a consent of assignee statement, and the surcharge under 37 CFR 1.492(h).

On 04 January 2008, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.497(d) because a showing under 3.73(b) has not been made.

On 11 January 2008, applicants filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by a copy of an assignment.

DISCUSSION

37 CFR 1.497(d), provides:

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

As noted in the decision mailed 04 January 2008, items (1) and (2) have been satisfied and items (4) is not required.

Item (3) has now been satisfied.

The declaration of inventors filed 13 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 Helmust Fleischer, Uve Czempik, Wolfram Keil, Christian Reckzeh, and Markus Wimmer as inventors.

/Daniel Stemmer/

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ALEXANDRIA VA 22314

In re Application of	:	
Weniger et al.	:	
Application No. 10/585,816	:	
PCT No.: PCT/EP2005/000319	:	
Int. Filing Date: 14 January 2005	:	DECISION
Priority Date: 14 January 2004	:	
Atty. Docket No.: 06088	:	
For: Method For Determining Colour	:	
Perception In Multi-Layer Systems	:	

This is in response to the "Submission Of Inventor's Declaration" filed on 23 August 2006.

BACKGROUND

This international application was filed on 14 January 2005, claimed an earlier priority date of 14 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 28 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 July 2006. Applicants filed, *inter alia*, the basic national fee on 12 July 2006.

DISCUSSION

Inspection of the declaration filed on 23 August 2006 reveals that it nominates "Kirsten Povel, geb. Weniger" in place of "WENIGER, Kirsten" named in the published international application. Counsel states that the inventor "has become married and now uses the name Kirsten Povel, as indicated on the inventors' declaration." MPEP 605.04(b) states in part that

> *Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

Since the 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. In the absence of such a petition, it would not be appropriate to accept the declaration at this time. It is noted that the declaration is defective for the further reason that it includes an un-initialed alteration to the inventor's name.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

/George Dombroske/
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In re Application of Weniger et al. Application No. 10/585,816 PCT No.: PCT/EP2005/000319 Int. Filing Date: 14 January 2005 Priority Date: 14 January 2004 Atty. Docket No.: 06088 For: Method For Determining Colour Perception In Multi-Layer Systems	:	DECISION

This is in response to applicants' response filed on 22 September 2008.

DISCUSSION

In a Decision mailed on 04 August 2008, it was observed that

Inspection of the declaration filed on 23 August 2006 reveals that it nominates "Kirsten Povel, geb. Weniger" in place of "WENIGER, Kirsten" named in the published international application. Counsel states that the inventor "has become married and now uses the name Kirsten Povel, as indicated on the inventors' declaration." MPEP 605.04(b) states in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Since the 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. In the absence of such a petition, it would not be appropriate to accept the declaration at this time. It is noted that the declaration is defective for the further reason that it includes an un-initialed alteration to the inventor's name.

In response, applicants have filed a newly executed declaration which nominates "Kirsten POVEL (nee Weniger)" *in lieu* of "WENIGER, Kirsten" named in the published international application. However, this change in the inventor's surname continues to constitute a change whose acceptance requires a formal petition under 37 CFR 1.182. In the absence of such a petition, it would not be appropriate to accept the declaration.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within either (1) **ONE (1) MONTH** from the mail date of this decision (**NOT** extendable) or (2) the remaining period for response to the Decision mailed on 04 August 2008 (extendable under 37 CFR 1.136(a)), whichever expires later. Failure to timely file a proper response will result in **ABANDONMENT**. This period for response is analogous to that which would be set in a Notification of Defective Response (Form PCT/DO/EO/916).

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

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In re Application of Weniger et al. Application No. 10/585,816 PCT No.: PCT/EP2005/000319 Int. Filing Date: 14 January 2005 Priority Date: 14 January 2004 Atty. Docket No.: 06088 For: Method For Determining Colour Perception In Multi-Layer Systems	:	DECISION

This is in response to applicants' "Petition Under 37 CFR 1.117(f)" filed on 14 November 2008, which is being treated under 37 CFR 1.182.

DISCUSSION

In a Decision mailed on 10 November 2008, it was observed that

> applicants have filed a newly executed declaration which nominates "Kirsten POVEL (nee Weniger)" *in lieu* of "WENIGER, Kirsten" named in the published international application. However, this change in the inventor's surname continues to constitute a change whose acceptance requires a formal petition under 37 CFR 1.182. In the absence of such a petition, it would not be appropriate to accept the declaration.

The instant petition requests relief on the basis that the "inventor has become married and now uses the name Kirsten Povel." However, this is not corroborated by a statement made on the basis of first-hand knowledge (e.g., by the inventor) attesting to the fact of the name change, and that the name appearing on the declaration identifies the same inventor who was nominated in the published international application. As such, it would not be appropriate to grant the petition on the basis of the present record.

DECISION

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

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision, extendable under 37 CFR 1.136(a)). Failure to timely file a proper response will result in **ABANDONMENT**.

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

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In re Application of	:	
Povel et al.	:	
Application No. 10/585,816	:	
PCT No.: PCT/EP2005/000319	:	
Int. Filing Date: 14 January 2005	:	DECISION
Priority Date: 14 January 2004	:	
Atty. Docket No.: 06088	:	
For: Method For Determining Colour	:	
Perception In Multi-Layer Systems	:	

This is in response to applicants' "Petition Under 37 CFR 1.117(f)" filed on 23 December 2008, which is being treated under 37 CFR 1.182.

DISCUSSION

In a Decision mailed on 24 November 2008, the petition under 37 CFR 1.182 filed on 14 November 2008 was dismissed, without prejudice, because

> The instant petition requests relief on the basis that the "inventor has become married and now uses the name Kirsten Povel." However, this is not corroborated by a statement made on the basis of first-hand knowledge (e.g., by the inventor) attesting to the fact of the name change, and that the name appearing on the declaration identifies the same inventor who was nominated in the published international application. As such, it would not be appropriate to grant the petition on the basis of the present record.

In response, petitioner now presents a "Statement Of Kirsten Povel," who attests to her name change due to marriage and to her identity as inventor Kirsten Weniger, who was nominated in the published international application. Based on the totality of the evidence now of record, it would be appropriate to accept her name as it appears on the declaration filed on 22 September 2008. Applicants are encouraged to file an application data sheet to ensure that her name appears correctly should this application issue as a patent.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 September 2008**.

/George Dombroske/
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2 7 JAN 2009

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In re Application of KNIGHT (deceased) et al. Serial No.: 10/585,829 PCT No.: PCT/AU04/01733 Int. Filing Date: 10 December 2004 Priority Date: 13 January 2004 Atty. Docket No.: MOR3-PT023 For: BRIDGING BEAM	DECISION ON DECLARATION UNDER 37 CFR 1.42

This is in response to applicant's Declaration which was filed in the United States Patent and Trademark Office on 12 November 2008. Applicant's request for a two month extension of time is granted.

BACKGROUND

On 13 June 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 November 2008, applicant filed a declaration executed by two of three inventors named in the international application along with the $65 surcharge for filing the declaration after the thirty month period and a request for an extension of time. The declaration was allegedly executed by the apparent heir to a deceased inventor.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The executed declaration submitted on 12 November 2008, identified the inventors as John Keith Knight, Robert Edwin Randell and Carmel Geraldine Chell. Counsel of record stated that the declaration was executed by Mr. Knight's widow. However, the declaration did not identify her as the legal representative or the heir of the deceased inventor. This declaration is unacceptable with regard to the deceased inventor and his heir(s).

The execution of the declaration for deceased inventor does not meet the requirements of 37 CFR 1.497(b). Although the declaration identifies John Keith Knight, it does not identify Beverly Anne Knight as the sole heir of deceased inventor

It is unclear whether Beverly Anne Knight is the only heir of deceased inventor Knight. If she is not the only 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.

The declaration is also defective because it does not state the country of citizenship, residency and mailing address for *both* the deceased inventor and the heir, to meet the requirements for compliance with 37 CFR 1.497.

The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42. The declaration is unacceptable under 37 CFR 1.497 (a) and (b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 and 37 CFR 1.497(d) 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.

What is required is a newly executed declaration, in accord with the requirements of 37 CFR 1.497(a) and (b), where the heir(s) of the deceased inventor has signed in accord with this decision.

Applicant must respond within **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.

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In re Application of KNIGHT (deceased) et al. Serial No.: 10/585,829 PCT No.: PCT/AU04/01733 Int. Filing Date: 10 December 2004 Priority Date: 13 January 2004 Atty. Docket No.: MOR3-PT023 For: BRIDGING BEAM	DECISION ON DECLARATION UNDER 37 CFR 1.42

This is in response to applicant's Declaration which was filed in the United States Patent and Trademark Office on 27 April 2009. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 13 June 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 November 2008, applicant filed a declaration executed by two of three inventors named in the international application along with the $65 surcharge for filing the declaration after the thirty month period and a request for an extension of time. The declaration was allegedly executed by the apparent heir to a deceased inventor.

On 27 January 2009, a decision was mailed indicating that the declaration was unacceptable under 37 CFR 1.497 (a) and (b).

On 27 April 2009, an incomplete declaration was filed.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The executed declaration submitted on 12 November 2008, identified the inventors as John Keith Knight, Robert Edwin Randell and Carmel Geraldine Chell. Counsel of record stated that the declaration was executed by Mr. Knight's widow. However, that declaration did not identify her as the legal representative or the heir of the deceased inventor and was unacceptable with regard to the deceased inventor and his legal representative/heir(s).

Petitioner now presents an incomplete declaration (supplemental page only) for deceased inventor which does not meet the requirements of 37 CFR 1.497(b). Although the declaration identifies Beverly Anne Knight as the legal representative, it does not identify John Keith Knight as the deceased inventor.

The declaration is also defective because it does not identify the specification to which it is directed. Moreover, the declaration does not meet the requirements of 37 CFR 1.497(a)(3) because it does not identify each inventor and the country of citizenship of each inventor, including the deceased inventor. It is merely a one page of a declaration, to meet the requirements for compliance with 37 CFR 1.497(a) and (b).

The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42. The declaration is unacceptable under 37 CFR 1.497 (a) and (b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 and 37 CFR 1.497(d) is **DISMISSED WITHOUT PREJUDICE.**

What is required is a newly executed declaration, in accord with the requirements of 37 CFR 1.497(a) and (b).

Applicant must respond within 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.

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2 1 SEP 2009

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In re Application of KNIGHT (deceased) et al. Serial No.: 10/585,829 PCT No.: PCT/AU04/01733 Int. Filing Date: 10 December 2004 Priority Date: 13 January 2004 Atty. Docket No.: MOR3-PT023 For: BRIDGING BEAM	DECISION ON DECLARATION UNDER 37 CFR 1.42

This is in response to applicant's Declaration which was filed in the United States Patent and Trademark Office on 16 July 2009.

BACKGROUND

On 13 June 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 November 2008, applicant filed a declaration executed by two of three inventors named in the international application along with the $65 surcharge for filing the declaration after the thirty month period and a request for an extension of time. The declaration was allegedly executed by the apparent heir to a deceased inventor.

On 27 January 2009, a decision was mailed indicating that the declaration was unacceptable under 37 CFR 1.497 (a) and (b). On 27 April 2009, an incomplete declaration was filed. On 02 July 2009, a decision was mailed indicating that the declaration was incomplete (supplemental page only) for deceased inventor and did not meet the requirements of 37 CFR 1.497(b). Although the declaration identified Beverly Anne Knight as the legal representative, it did not identify John Keith Knight as the deceased inventor.

DISCUSSION

As previously stated, 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address

of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The executed declarations submitted on 16 July 2009, identified the inventors as John Keith Knight (deceased), Robert Edwin Randell and Carmel Geraldine Chell. The declaration also identifies the deceased inventor's widow as the legal representative of the estate.

The requirements of 37 CFR 1.497 (a) and (b) have now been met and the declarations are acceptable as filed. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42. The declaration is acceptable under 37 CFR 1.497 (a) and (b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED.**

The declarations executed by the joint inventors and by the legal representative for deceased inventor John Keith Knight submitted on 16 July 2009 are accepted as a proper declaration under 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 16 July 2009.

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In re Application of KANG	:	
U.S. Application No.: 10/585,838	:	
PCT Application No.: PCT/KR2005/000141	:	
Int. Filing Date: 14 January 2005	:	DECISION
Priority Date Claimed: 15 January 2004	:	
Attorney Docket No.: 05-518-B	:	
For: STRUCTURE OF A MANAGEMENT	:	
INFORMATION BASE . . .	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(b) by Person Having Proprietary Interest to File Application on Behalf of Inventor Who Cannot be Located" filed 30 April 2007.

BACKGROUND

On 14 January 2005, applicant filed international application PCT/KR2005/000141, which claimed priority of an earlier Korea application filed 15 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 28 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 July 2006.

On 12 July 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 27 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 30 April 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, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that inventor Kwang Seok Kang cannot be located. The petition includes an affidavit from Jiwon Lim, the person with apparent firsthand knowledge of efforts to reach Jang. Petitioner unsuccessfully tried to contact Jang through postal mail, personal visitation, and by searching telephone and Internet directories (see Lim affidavit, 7-13). Thus, it can be concluded with reasonable certainty that Kang cannot be reached after diligent effort.

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 inventors 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).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Kang assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcom Korea Limited ("UTStarcom"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcom (see affidavit of Robert Irvine, Exhibit B, page 46/46). Furthermore, the petition includes an appropriate legal memorandum from attorney Joo-Young Kim which states that Hyundai would have title to the present invention instead of the inventor Kang. Therefore, a chain of title from Kang to UTStarcom has been sufficiently established.

With regard to item (6) above, the petition contains 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 GRANTED.

This application has an international filing date of 14 January 2005 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 April 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

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In re Application of KANG
U.S. Application No.: 10/585,838
PCT Application No.: PCT/KR2005/000141
Int. Filing Date: 14 January 2005
Priority Date Claimed: 15 January 2004
For: STRUCTURE OF A MANAGEMENT INFORMATION BASE . . .

Dear Kwang Seok Kang:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

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

Bryan Lin

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Attorney Docket No.: 05-518-B

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Mail Date: 04/21/2010

Applicant	: Wilhelm Werner Meincke	: DECISION ON REQUEST FOR
Patent Number	: 7606354	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **572** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Mail Date: 05/18/2010

Applicant : Wilhelm Werner Meincke
Patent Number : 7606354
Issue Date : 10/20/2009
Application No : 10/585,840
Filed : 07/12/2006

: 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 **604** 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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KENYON & KENYON LLP
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Mail Date: 04/21/2010

Applicant	: Clayton Price	: DECISION ON REQUEST FOR
Patent Number	: 7598299	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,925	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **314** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

07 SEP 2006

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In re Application of	:	
CARLSON, John R., et al.	:	
Application No.: 10/585,950	:	DECISION
PCT No.: PCT/US04/42372	:	
Int. Filing Date: 20 December 2004	:	ON PETITION UNDER
Priority Date: 20 December 2003	:	
Docket No.: YALE-101/01US	:	37 CFR 1.137(b)
For: IN VIVO ODORANT RECEPTOR	:	
SYSTEMS AND THEIR USES	:	

Applicants' "Petition to Revive Under 37 CFR 1.137(B)," filed in the above-captioned application on 13 July 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. 50-1283.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

09/07/2006 SBASHEIR 00000003 501283 10585950
01 FC:2617 65.00 DA

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Fabienne Cuesta	: DECISION ON REQUEST FOR
Patent Number	: 7585333	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/585,956	: 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 **487** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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19 SEP 2006

HARRIET M. STRIMPEL
NEW ENGLAND BIOLABS, INC.
240 COUNTY ROAD
IPSWICH MA 01938-2723

In re Application of:	DECISION ON PETITION
GUAN, Chudi, et al.	
U.S. Application No.: 10/585,964	
PCT No.: PCT/US2004/039288	
International Filing Date: 22 November 2004	
Priority Date: 21 November 2003	
Atty Docket No.: NEB-236-PUS	
For: MODIFIED DNA CLEAVING ENZYMES AND METHODS FOR USE	

The petition for revival under 37 CFR 1.137(b) filed 13 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required documents from the due date until the filing of this petition was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-0740 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 13 July 2006.

09/19/2006 SBASHEIR 00000005 140740 10585964
01 FC:2617 65.00 DA

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

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

MAILED

JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of
Jonny B. RECKLESS
Application No. 10/585,967
Filed: July 12, 2006
Attorney Docket No. **2147.020US1**

NOTICE UNDER 37 CFR. 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 1998, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

18 AUG 2006

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Alexandria, VA 22313-1450
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
Huang et al.	:	
Application No.: 10/585,976	:	DECISION
PCT No.: PCT/US04/41083	:	
Int. Filing Date: 09 December 2004	:	ON
Earliest Priority Date: 09 December 2003	:	
Attorney Docket No.: 023231-00037	:	PETITION
For: High-Level Expression Of Fusion Poly-peptides In Plant Seeds Utilizing Seed-Storage Proteins As Fusion Carriers	:	

The petition to revive under 37 CFR 1.137(b) filed 13 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

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

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03 AUG 2006

Christopher G. Trainor
Carter, Deluca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, NY 11747

In re Application of	:	
CARLYON, et al.	:	DECISION ON PETITION
Application No.: 10/585,987	:	
PCT No.: PCT/US04/36339	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 November 2004	:	
Priority Date: 31 October 2003	:	
Atty. Docket No.: 1502-84PCTUSCIP	:	
For: SAFETY SHIELD	:	

The petition to revive under 37 CFR 1.137(b) filed 13 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant is advised that the filed declaration is not in compliance with 37 CFR 1.497 (a)-(b). Manual of Patent Examining Procedure (MPEP) Section 201.03 explains:

> 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.

Page four of the declaration lists all three inventors and contains signatures executed on July 13, 2006 from inventors Carlyon and Fiser. Page five of the declaration also lists all three inventors but was executed by inventor Tartock on December 11, 2004. In addition, the post office address and residence information for inventor Carlyon is different on pages four and five. As such, it appears that separate declarations were combined into one declaration rendering the document non-compliant.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

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

31 JUL 2006

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Joseph M. Rolnicki
Thompson Colburn, LLP
One US Bank Plaza
St. Louis, MO 63101

In re Application of	:	
SCHELLER	:	
U.S. Application No.: 10/586,017	:	DECISION ON PETITION
PCT No.: PCT/US04/38176	:	
Int. Filing Date: 15 November 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 13 November 2003	:	
Attorney Docket No.: 54084-62558	:	
For: ILLUMINATED LASER PROBE WITH	:	
ADJUSTABLE AREA OF ILLUMINATION	:	

The petition to revive under 37 CFR 1.137(b) filed 14 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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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01 AUG 2006

Joseph M. Rolnicki
Thompson Coburn, LLP
One US Bank Plaza
St. Louis, MO 63101

In re Application of SCHELLER	:	
U.S. Application No.: 10/586,018	:	
PCT Application No.: PCT/US04/38175	:	
Int. Filing Date: 15 November 2004	:	DECISION
Priority Date Claimed: 13 November 2003	:	
Attorney Docket No.: 54084-62559	:	
For: SURGICAL INSTRUMENT HANDLE WITH	:	
ADJUSTABLE ACTUATOR POSITION	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 July 2006.

BACKGROUND

On 15 November 2004, applicant filed international application PCT/US04/38175, which claimed priority of an earlier United States application filed 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 May 2006.

International application PCT/US04/38175 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 July 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

05 SEP 2006

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

In re Application of	:	
SCHOELLING	:	
Application No.: 10/586,019	:	DECISION ON
PCT No.: PCT/EP2003/010721	:	
Int. Filing Date: 26 September 2003	:	PETITION UNDER
Priority Date: 26 September 2002	:	
Attorney Docket No.: J&J5008	:	37 CFR 1.137(b)
For: TAMPON FOR FEMININE HYGIENE AND PROCESS AND APPARATUS FOR	:	

This decision is in response to applicant's submission filed 14 July 2006.

BACKGROUND

On 26 September 2003, applicant filed international application PCT/EP2003/010721 which designated the U.S. and claimed a priority date of 26 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2005 (26 March 2005 being a Saturday).

On 14 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 14 July 2006.

As to item (2), applicant submitted the petition fee on 14 July 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 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

2 0 APR 2009

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Bayer Pharmaceuticals Corp.
400 Morgan Lane
West Haven, CT 06516

In re Application of WOLTERING et al. Application No.: 10/586,023 PCT No.: PCT/EP04/14871 Int. Filing: 31 December 2004 Priority Date: 14 January 2004 Attorney Docket No.: BHC 031067 For: TRICYCLIC BENZAZEPINE DERIVATIVES AS SQUALENE SYNTHASE INHIBITORS USED FOR THE TREATMENT OF CARDIO VASCULAR DISEASES	:	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 February 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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).

A review of the application file reveals that a declaration, in compliance with 37 CFR 1.497(a) and (b), has now been provided. The required petition fee of $1640 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 17 February 2009.

Cynthia M. Kratz

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

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Wenping Wu	: DECISION ON REQUEST FOR
Patent Number	: 7635470	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,026	: 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 **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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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 05/17/2010

Applicant : Wenping Wu
Patent Number : 7635470
Issue Date : 12/22/2009
Application No : 10/586,026
Filed : 07/13/2006

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

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

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

The patent term adjustment has been determined to be **478** 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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PFIZER INC.
PATENT DEPARTMENT
Bld 114 M/S 114
EASTERN POINT ROAD
GROTON, CT 06340

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OFFICE OF PETITIONS

In re Application of :
Berwyn Bish, et al. :
Application No. 10/586,029 : ON PETITION
Filed: January 17, 2007 :
Attorney Docket No. PC32050A :

This is a decision in response to the petition, filed March 19, 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 February 7, 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 May 7, 2008. A Notice of Abandonment was mailed on October 16, 2008. On March 19, 2009, the present petition was filed.

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

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received March 19, 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

9/21/07

DATE ~~PETDEC. DIPE~~

DOC CODE PETDEC. DIPE

APPLICATION NUMBER 10/586,052

DOC DATE 9/21/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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2 1 SEP 2007

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of
MATSUI et al.
Application No.: 10/586,052
PCT No.: PCT/JP05/00283
Int. Filing Date: 13 January 2005
Priority Date: 15 January 2004
Attorney Docket No.: P30310
For: IRES FUNCTIONING IN PLANT

DECISION ON PETITION

This decision is issued in response to applicants' "Response to Notice of File Missing Requirements" filed 16 April 2007 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 January 2005, applicants filed international application PCT/JP05/00283 which claimed a priority date of 15 January 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 15 July 2006.

On 14 July 2006, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

On 16 April 2007, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s); a post card receipt dated 14 July 2006; and sequence listing materials responsive to the Notification Of Missing Requirements (including a purported Computer Readable Form (CRF) of the sequence listing).

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 14 July 2006. A review of the present application reveals that the declaration/power of attorney is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the first-named inventor, international application number, and attorney docket number. The receipt itemizes, among other things, a declaration and power of attorney. The receipt is stamped "Rec'd OIPE 14 July 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 14 July 2006.

The sequence listing and sequence listing in computer readable form has been forwarded to Scientific and Technical Information Center for further processing.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

In view of the declaration filed 14 July 2006, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 16 February 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

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

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22 JUN 2007

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco ca 94111-3834

In re Application of :
MORBIDELLI *et al* :
U.S. Application No.: 10/586,065 :
PCT No.: PCT/AT2005/000002 :
Int. Filing Date: 13 January 2005 : **DECISION**
Priority Date: 15 January 2004 :
Attorney Docket No.: 088857-000000US :
For: METHOD FOR THE PRODUCTION OF :
A CHEMICAL REACTION PRODUCT :
WITH THE AID OF A FIXED-BED :
REACTOR :

This is a decision on the petition filed on 06 June 2007 which is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 11 April 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 a declaration in compliance with 37 CFR 1.497(a) & (b) and a surcharge fee must be provided. A two-month time period for response was set.

On 06 June 2007, applicants filed a petition to vacate the Form PCT/DO/EO/905 as it was mailed to the wrong address and have the Office issue a new one.

DISCUSSION

A review of the file for the above-captioned application shows that the Form PCT/DO/EO/905 was indeed mailed to the wrong address. The correspondence address has now been updated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is hereby **GRANTED**.

The Notification of Missing Requirements Under 35 U.S.C. 371 mailed 11 April 2007 in the above-captioned application is hereby **VACATED**.

10/586,065

This application is being forwarded to the DO/EO/US for further processing including mailing another Form PCT/DO/EO/905.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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In re Application of
Massimo Morbidelli, et al.
Application No. 10/586,065
Filed: August 24, 2007
Attorney Docket No. 088857-000000US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 12, 2009.

The petition is not signed by a registered attorney or agent or record. However, in accordance with 37 CFR 1.34(a), the signature of J. George Seka appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 20, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 20, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 21, 2009. A Notice of Abandonment was mailed on November 3, 2009. On November 12, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and the $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

01 AUG 2006

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Leydig, Voit & Mayer, LTD.
Two Prudential Plaza, Suite 4900
180 Stetson Avenue
Chicago, Illinois 60601-6780

In re Application of BROUGH, Douglas E. Application No.: 10/586,072 PCT No.: PCT/US04/04891 Int. Filing Date: 19 February 2004 Priority Date: 24 February 2004 Attorney Docket No.: 253625 For: METHODS OF GENE THERAPY FOR TREATING DISORDERS OF THE EAR BY ADMINSTERING A VECTOR ENCODING AN ATONAL-ASSOCIATED FACTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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

1 5 AUG 2008

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

In re Application of	:	
SHIINA, Hiroki et al.	:	
U.S. Application No.: 10/586,120	:	
PCT No.: PCT/JP2005/017964	:	DECISION ON
Int. Filing Date: 29 September 2005	:	
Priority Date: 17 November 2004	:	PETITION
Attorney Docket No.: 09812.0111	:	
For: RECORDING APPARATUS AND	:	UNDER 37 CFR 1.181
RECORDING METHOD,	:	
REPRODUCING APPARATUS AND	:	
REPRODUCING METHOD, AND	:	
PROGRAM	:	

This is a decision on the petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 21 February 2008.

BACKGROUND

On 02 April 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) was required.

On 05 February 2008, 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 21 February 2008, applicants filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

Applicants claim to have submitted a timely response to the Notification of Missing Requirements and ask that holding of abandonment be withdrawn. To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped postcard receipt identifying the above

captioned application and listing a declaration. Applicants have provided a copy of the declaration they claim to have earlier submitted. The copy of the declaration is accepted as having a receipt date of 04 June 2007.

CONCLUSION

For the above reason, applicants' request to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 February 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of **04 June 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Phone: (571) 272-3292
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0 5 SEP 2007

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

In re Application of	:	
NIEMARK, et al.	:	
U.S. Application No.: 10/586,127	:	DECISION ON PETITION
PCT No.: PCT/NL05/00039	:	
Int. Filing Date: 19 January 2005	:	UNDER 37 CFR 1.182
Priority Date: 19 January 2004	:	
Attorney's Docket No.: 4662-214	:	
For: THERMOPLASTIC ELASTOMER	:	
COMPOSITION	:	

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed 17 May 2007 in the United States Patent and Trademark Office (USPTO). For the reasons detailed below the response is being treated as a petition under 37 CFR 1.182. As authorized, the $400.00 petition fee will be charged to deposit account number 14-1140.

BACKGROUND

On 19 January 2005, applicant filed international application PCT/NL05/00039, which claimed priority of an earlier application filed 19 January 2004. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 28 July 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 19 July 2006.

On 17 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment. Applicant did not file an executed oath or declaration of the inventor.

On 07 November 2006, applicant filed an executed declaration of the inventors.

On 12 April 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. Applicant was advised that the second named inventor's name was different on the filed declaration than on the international application. Applicant was given two months to respond.

On 17 May 2007, applicant filed the present response indicating that the second named inventor, Marianna Sarkissova had married and taken her husband's name and thus executed the declaration as Marianna Sarkissova-Mikhaylova.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) section 605.04 provides guidance for instances where an inventor has changed names. It explains that:

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name.

As applicant has not provided either a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.182 is **DISMISSED**.

Applicant is hereby afforded **TWO (2) MONTHS** to file a proper response as detailed above. The response should be titled, "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Please direct future 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.

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

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25 FEB 2008

Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of NIEMARK, et al. Application No.: 10/586,127 PCT No.: PCT/NL05/00039 Int. Filing Date: 19 January 2005 Priority Date: 19 January 2004 Attorney's Docket No.: 4662-214 For: THERMOPLASTIC ELASTOMER COMPOSITION	DECISION ON RENEWED PETITION UNDER 37 CFR 1.182

This decision is response to applicant's "Renewed Petition Under 37 CFR 1.182" filed in the United States Patent and Trademark Office (USPTO) on 10 October 2007.

BACKGROUND

On 05 September 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182. Applicant was afforded two months to file any request for reconsideration.

On 10 October 2007, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The present renewed petition is accompanied by a declaration setting forth the procedure whereby the change of name of inventor SARKISSOVA-MAIKHAYLOVA was effected; namely by marriage. The declaration is executed by Mrs. SARKISSOVA-MAIKHAYLOVA using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time. Further, a review of the application file reveals that with the filing of the present renewed petition, which perfects the declaration filed 07 November 2006, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

The renewed petition under 37 CFR 1.182 to change the inventor's name from Marianna SARKISSOVA to Marianna SARKISSOVA-MAIKHAYLOVA is **GRANTED**.

The application has an international filing date of 19 January 2005 under 35 U.S.C. 363

and will be given a date of **07 November 2006** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision.

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

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ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Dan Kuylenstierna, et al. :
Application No.: 10/586,139 : ON PETITION
Filed: July 17, 2006 :
Attorney Docket No.: 3670-72 :

This is a decision on the petition, filed July 9, 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 June 22, 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 2817 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Yasushi Niitsu	: DECISION ON REQUEST FOR
Patent Number	: 7639348	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,148	: 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 **535** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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3 1 OCT 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.	DECISION
U.S. Application No.: 10/586,166	
PCT Application No.: PCT/US2005/002522	ON
Int. Filing Date: 26 January 2005	
Priority Date: 26 January 2004	PETITION
Atty Docket No.: 40853-01-5147-US	
For: BRANCHED POLYMERIC SUGARS AND NUCLEOTIDES THEREOF	UNDER
	37 CFR 1.181

This is in response to the submission under 37 CFR 1.181 filed on 24 July 2008.

BACKGROUND

On 26 January 2005, applicant filed international application number PCT/US2005/002522, which claimed priority to an earlier United States application filed 26 January 2004. The thirty month national stage deadline expired on 25 July 2006.

On 14 July 2006, applicant filed national stage papers in the United States Designated Office (DO/EO/US). The submission included, inter alia, the requisite basic national fee.

On 24 July 2008, applicant filed the present petition under 37 CFR 1.181.

Applicant has requested correction of a typographical error "60/643,347" filed on 10 January 2005 to --60,643,437--. This appears to be a data entry error and will be corrected and a filing receipt will be issued reflecting the correction.

Applicant also requested correction under 37 CFR 1.78(a)(2)(i) of the relationship between the present application and priority international applications PCT/US04/39712, PCT/US05/00799, and PCT/US04/40709, to reflect that the present application is a continuation-in-part of the '712, '799, and '709 applications.

DISCUSSION

Regarding the '712, '799, and '709 international applications, 37 CFR 1.78 (a)(2) states in relevant part:

(i) Except for a continued prosecution application filed under 37 CFR 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see 37 CFR 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111 (a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121 or 365(c) to such prior-filed application.

Applicant has not met the requirements in that the request was submitted later than four months from the date on which the national stage commenced or sixteen months from the filing date of the prior-filed application.

It is further noted that the '712 application is not listed as a priority document in the international application publication. Rather, the international application lists PCT/US04/03971.

An appropriate petition under 37 CFR 1.78(a)(3) along with the requisite $1410.00 petition fee would be required to make the requested corrections.

CONCLUSION

Applicant's petition is GRANTED in part as outlined above. The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Katherine Moran
PCT Special Programs, Detailee
Office of PCT Legal Administration
Telephone: (571) 272-6095

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Attachment: Corrected filing receipt

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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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In re Application of :
Defrees, et al. :
Application No. 10/586,166 : DECISION
Filed: 14 July, 2006 :
Attorney Docket No. 101961-5147-US/705742

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:

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 1623 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.

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

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

Mail Date: 05/04/2010

Applicant	: Tsuaki Odaka	: DECISION ON REQUEST FOR
Patent Number	: 7642219	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,171	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/09/2010

Applicant	: Hiroshi Saegusa	: DECISION ON REQUEST FOR
Patent Number	: 7629434	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **663** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SQUIRE, SANDERS & DEMPSEY L.L.P.
8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA, VA 22182-6212

Mail Date: 05/07/2010

Applicant	: Shouichi Nakao	: DECISION ON REQUEST FOR
Patent Number	: 7632190	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **343** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FLETCHER YODER
(CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
HOUSTON TX 77251

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In re Application of	:	
Liberale, et al.	:	
Application No. 10/586,205	:	DECISION
Filed/Deposited: 13 July, 2006	:	
Attorney Docket No. CCV/Dresser 030957 US (CM	:	

This is a decision on the petition filed on 4 September, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 October, 2008, with reply due absent extension of time on or before 31 January, 2009.

The application went abandoned by operation of law after midnight 31 January, 2009.

The Office mailed the Notice of Abandonment on 6 August, 2009.

On 4 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—however, rather than make the documentary showings (docket sheet/file jacket cover and due date calendar for the firm) Petitioner instead made some of the statements required but failed to satisfy the document requirements/showing as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (Again, Petitioner failed to include a due date calendar and the docket sheet/file jacket of the application, and chose instead simply to state that the Office action was returned to the Office undelivered.)

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[1]

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a 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 a terminal disclaimer and fee where appropriate.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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

[6] 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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FLETCHER YODER
(CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
HOUSTON TX 77251

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In re Application of	:	
Liberale, et al.	:	
Application No. 10/586,205	:	DECISION
Filed/Deposited: 13 July, 2006	:	
Attorney Docket No. CCV/Dresser 030957 US (CM	:	

This is a decision on the petition filed on 26 January, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 October, 2008, with reply due absent extension of time on or before 31 January, 2009.

The application went abandoned by operation of law after midnight 31 January, 2009.

The Office mailed the Notice of Abandonment on 6 August, 2009.

On 4 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—however, rather than make the documentary showings (docket sheet/file jacket cover and due date calendar for the firm) Petitioner instead made some of the statements required but failed to satisfy the document requirements/showing as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (Again, Petitioner failed to include a due date calendar and the docket sheet/file jacket of the application, and chose instead simply to state that the Office action was returned to the Office undelivered.) The petition was dismissed on 28 September, 2009, and Petitioner had two (2) months to reply.

On 26 January, 2010, with a request and fee for extension of time Petitioner re-advanced the petition, again providing some of the required statements/documentation, but not all, and stated that "Cameron does not maintain a master docket for all prosecution matters, but rather Cameron maintains an individual docket for each application." The guidance in the Commentary at MPEP 711.03(c)(I) requires and Petitioner was requested to present not a "master docket for all prosecution matters," but rather the docket for the individual application—which Petitioner submitted—and what is in essence a copy of the firm's due date calendar for the reply due date (here: 31 January, 2009). As stated in the MPEP and set forth below: "[the] report showing all replies docketed for a date three months from the mail date of the nonreceived Office action[,]" and this latter document Petitioner did not provide. Alternatively, also as set forth below, the MPEP requires: "If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question."

Petitioner is asked to comply.

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should

establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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.

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

---

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a 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 a terminal disclaimer and fee where appropriate.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FLETCHER YODER
(CAMERON INTERNATIONAL
CORPORATION)
P.O. BOX 1212
HOUSTON TX 77251

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
Liberale, et al. :
Application No. 10/586,205 : DECISION
Filed/Deposited: 13 July, 2006 :
Attorney Docket No. CCV/Dresser 030957 US :
(CM

This is a decision on the petition filed on 3 June, 2010, supplemented on 29 June, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 October, 2008, with reply due absent extension of time on or before 31 January, 2009.

The application went abandoned by operation of law after midnight 31 January, 2009.

The Office mailed the Notice of Abandonment on 6 August, 2009.

On 4 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—however, rather than make the documentary showings (docket sheet/file jacket cover and due date calendar for the firm) Petitioner instead made some of the statements required but failed to satisfy the document requirements/showing as set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (Again, Petitioner failed to include a due date calendar and the docket sheet/file jacket of the application, and chose instead simply to state that the Office action was returned to the Office undelivered.) The petition was dismissed on 28 September, 2009, and Petitioner had two (2) months to reply.

On 26 January, 2010, with a request and fee for extension of time Petitioner re-advanced the petition, again providing some of the required statements/documentation, but not all, and stated that "Cameron does not maintain a master docket for all prosecution matters, but rather Cameron maintains an individual docket for each application." The guidance in the Commentary at MPEP 711.03(c)(I) requires and Petitioner was requested to present not a "master docket for all prosecution matters," but rather the docket for the individual application (which Petitioner submitted) and what is in essence a copy of the firm's due date calendar for the reply due date (here: 31 January, 2009) —the latter of which it appeared Petitioner did not present. As stated in the MPEP and set forth below: "[the] report showing all replies docketed for a date three months from the mail date of the nonreceived Office action[,]" and this latter document Petitioner did not provide. Alternatively, also as set forth below, the MPEP requires: "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 petition was dismissed on 8 March, 2010.

On 3 June, 2010, with a request and fee for extension of time Petitioner re-advanced the petition, again providing a docket sheet for the application and another document identified preliminarily as an "Attorney Docket Report" and appearing to cover from 1 January, 2009 ("1JAN2009") through 1 February, 2009 ("1FE2009"), and appearing to be the due date calendar for Petitioner's and/or Petitioner's client's office. However, the materials were not explicit in this regard. The submission was explicit as to the other statements, primarily provided by Manish B. Vyas (Reg. No. 54,516) (Mr. Vyas), averred to be the Managing Attorney, Patent Services of Petitioner's client Cameron International Corporation. Petitioner's further statements/showings as to non-receipt at the address of record, search and non-discovery, description of mail/Office action docketing system and its suitable reliability were provided. Mr. Vyas indicates at paragraph 10 of his statement (pages 3-4) that the document identified as the "Attorney Docket Report" and appearing to cover from 1 January, 2009 ("1JAN2009") through 1 February, 2009 ("1FE2009"), was a due date calendar of his firm/office for calendaring of this matter.

Petitioner further supplemented the record on 29 June, 2010, indicating that the document identified as the "Attorney Docket Report" and appearing to cover from 1 January, 2009 ("1JAN2009") through 1 February, 2009 ("1FE2009"), indeed was the due date calendar Petitioner's client's firm/office for calendaring of this matter.

Thus, Petitioner sought to comply with and satisfy the showing pursuant to 37 C.F.R. §1.181 consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), <u>and</u> those registered to practice <u>and</u> all others who make representations before the Office <u>must</u> inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] <u>See</u> 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. <u>See</u> <u>Changes to Patent Practice and Procedure</u>, 62 <u>Fed. Reg.</u> at 53160 and 53178, 1203 <u>Off. Gaz. Pat. Office</u> 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).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 6 August, 2009, Notice of Abandonment hereby is **vacated**.

The instant application is released to Technology Center/AU 3753 for further processing in due course, to include the re-mailing of the non-final Office action previously mailed on 31 October, 2008, but not received.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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

---

[6] 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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FLETCHER YODER (CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
HOUSTON, TX 77251

Mail Date: 06/04/2010

Applicant	: Carlo Liberale	: DECISION ON REQUEST FOR
Patent Number	: 7642926	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,210	: 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 **797** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILLIAM L. ANDROLIA
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865 S. FIGUEROA STREET
10TH FLOOR
LOS ANGELES, CA 90007

Mail Date: 04/21/2010

Applicant	: Yasuhide Onozawa	: DECISION ON REQUEST FOR
Patent Number	: 7608977	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **628** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Myung-won Kang	: DECISION ON REQUEST FOR
Patent Number	: 7647556	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,238	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **544** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 0 MAR 2009

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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington DC 20005-1503

In re Application of	:	
Kawamura et al.	:	
Application No. 10/586,256	:	
PCT No.: PCT/JP2005/009496	:	
Int. Filing Date: 18 May 2005	:	DECISION
Priority Date: 25 May 2004	:	
Atty. Docket No.: 2006_0900A	:	
For: Wireless IC Communication Device	:	
And Response Method For The Same	:	

This is in response to the petition under 37 CFR 1.182 filed on 11 December 2008.

BACKGROUND

This international application was filed on 18 May 2005, claimed an earliest priority date of 25 May 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 08 December 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 25 November 2006. Applicants filed, *inter alia*, the basic national fee on 17 July 2006.

On 14 October 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h). The Notification indicated that "The first inventor's surname on the declaration doesn't correspond with the name on the published application. In addition, I do not have an IB Form 306 indicating any changes."

DISCUSSION

Inspection of the declaration filed on 17 July 2006 reveals that it nominates "Hiromi KAWAMURA" in place of "EBARA, Hiromi" who was named in the published international application. MPEP 605.04(b) states in part that

> *Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

Since the 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. Counsel has filed such a petition, and indicates that the "first inventor's surname on the Declaration differs from that on the published PCT application, because the first inventor's

surname changed subsequent to the filing of the international application due to marriage." Petitioner has provided a corroborating "Statement By Inventor Re Change-Of-Name" signed by Hiromi Kawamura, who describes the circumstances of her name change due to marriage subsequent to the filing of the international application. In view of the totality of the evidence currently of record, it would be appropriate to accept her name as it appears on the declaration filed on 17 July 2006.

DECISION

The petition under 37 CFR 1.182 is **GRANTED** .

The declaration filed on 17 July 2006 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being returned to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 July 2006**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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23 JUL 2008

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	DECISION ON
KUMAR et al	:	
Application No.: 10/586,261	:	
PCT No.: PCT/AU2005/000055	:	
Int. Filing Date: 19 January 2005	:	PETITION UNDER
Priority Date: 19 January 2004	:	
Attorney Docket No.: 0641-0283PUS1	:	
For: BIOACTIVE COATING OF	:	
BIOMEDICAL IMPLANTS	:	37 CFR 1.181

This decision is in response to the "REQUEST FOR CORRECTED NOTIFICATION OF ACCEPTANCE" filed 10 January 2008, which is being treated as a petition under 37 CFR 1.181 requesting that the correct date of completion of the USC 371(c)(1), (c)(2), and (c)(4) date be changed from 02/28/2007 to 02/08/2007.

BACKGROUND

On 19 January 2005, this international application was filed, claiming an earliest priority date of 19 January 2004. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 19 July 2006.

On 18 July 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, no executed declaration or oath under 35 U.S.C. 371(c)(4) was provided.

On 08 February 2007, applicants filed an executed declaration.

On 24 December 2007, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 28 February 2007, and a date of completion of all 35 USC 371 requirements of 28 February 2007.

On 10 January 2008, applicants filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing receipt, stating that the date of completion of all 35 USC 371 requirements is 08 February 2007.

DISCUSSION

A review of the executed declaration filed on 08 February 2007 reveals that it was defective, in that the name of the second named inventor has been improperly altered – lines across the name of the second inventor- and the name hand-written below the alteration to reflect the correct name of the inventor. 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. As a result, the declaration may not be accepted at this time.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 December 2007 was in error because applicants filed a defective executed declaration.

A proper response to this decision is a new oath or declaration in compliance with 37 CFR 1.497. There is no petition fee for this correction.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 December 2007 is **VACATED** with the mailing of this decision.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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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	: David Alan Casper	: DECISION ON REQUEST FOR
Patent Number	: 7649573	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,279	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **593** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

04 AUG 2006

Danita J.M. Maseles
Schlumberger Technology Corporation
5599 San Felipe
Suite 400
Houston TX 77056-2722

In re Application of GHORAYEB et al.
Application No.: 10/586,283
PCT No.: PCT/US02/37658
Int. Filing: 23 November 2002
Priority Date: None
Attorney Docket No.: 94.0052
For: METHOD AND SYSTEM FOR INTEGRATED RESERVOIR .....

DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has 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
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

United States Patent and Trademark Office

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DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

03 AUG 2006

In re Application of	:	
Delbridge et al.	:	
Application No.: 10/586,286	:	DECISION
PCT No.: PCT/ZA04/00141	:	
Int. Filing Date: 11 November 2004	:	ON
Earliest Priority Date: 14 November 2003	:	
Attorney Docket No.: 1122-P0005	:	PETITION
For: A Spice Grinder	:	

The petition to revive under 37 CFR 1.137(b) filed 13 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has filed the required reply in the form of the basic national fee, and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Petitioner's Deposit Account No. 50-2689 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(h), as authorized by the Transmittal Letter filed on 13 July 2006.

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **13 July 2006**.

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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21967
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

In re Application of HOULBERG *et al* U.S. Application No.: 10/586,325 PCT No.: PCT/DK2005/00027 Int. Filing Date: 17 January 2005 Priority Date: 16 January 2004 Attorney Docket No.: 58982.000040 For: METHOD AND SYSTEM FOR COLORIMETRIC DETERMINATION OF A CHEMICAL OR PHYSICAL PROPERTY OF A TURBID	**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 05 September 2007.

BACKGROUND

On 05 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 of time available.

On 05 September 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition, the surcharge fee, a five-month extension and fee, a declaration signed by two named inventors, an affidavit by Klaus Bach Hagen, assorted documentary evidence, and authorization to charge any additional fees which may be required to Deposit Account No. 50-0206.

DISCUSSION

Applicants claim that joint inventor Joseph Sturino refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 05 February 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 inventors.

Concerning item (1), the petition fee has changed to $200.00. Applicants submitted a $130.00 petition fee. The $70.00 difference has been charged to Deposit Account No. 50-0206 as authorized.

With regards to item (3), the last known address of Joseph Sturino is listed as:

4403 Spring Branch Court
College Station,
TX 77845

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by two of the three co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Items (1), (3) and (4) of 37 CFR 1.47(a) are complete.

Regarding item (2), the 37 CFR 1.47(a) applicants' submitted a declaration by Mr. Hagen who details his correspondence with co-inventor Joseph Sturino and that he received no response despite his efforts. This conduct would be sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP if the nonsigning inventor was presented with a complete copy of the subject application also. However, applicants have not demonstrated that a complete copy of the application including specification, claims and drawings were presented to the nonsigning inventor.

The statement by Mr. Hagen that they "previously forwarded a copy of the patent application in caption to Joseph Sturino" is insufficient without direct documentary evidence of the nonsigning inventor's receipt. Further, the evidence submitted shows that Mr. Hagen sent only a copy of the declaration and assignment to the nonsigning inventor. Moreover, the emails referencing documents previously forwarded by Elisabeth Matthes is also insufficient to show receipt by Mr. Sturino. Applicants must provide documentary evidence that a complete copy of the subject application, including specification, claims and drawings were **forwarded and received** by the nonsigning inventor.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

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CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available.

Any further correspondence with respect to this matter deposited with the USPS 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 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

1 3 JUN 2008

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In re Application of HOULBERG *et al* U.S. Application No.: 10/586,325 PCT No.: PCT/DK2005/00027 Int. Filing Date: 17 January 2005 Priority Date: 16 January 2004 Attorney Docket No.: 58982.000040 For: METHOD AND SYSTEM FOR COLORIMETRIC DETERMINATION OF A CHEMICAL OR PHYSICAL PROPERTY OF A TURBID	**DECISION**

This decision is in response to the "Request for Reconsideration of Petition Decision" submitted on 21 April 2008.

BACKGROUND

On 19 February 2008, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 21 April 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which contained, *inter alia*, a copy of a letter dated 26 March 2008 and a postal receipt.

DISCUSSION

As noted in the original decision, applicants' petition under 37 CFR 1.47(a) was dismissed for failing to show that a complete copy of the application including specification, claims and drawings were presented to the nonsigning inventor. As such, no refusal could be shown. All other items of 37 CFR 1.47(a) were completed.

In the renewed petition, applicants have provided a copy of a cover letter sent to the nonsigning inventor dated 26 March 2008. Applicants also included a copy of the confirmation provided by the international courier service.

A review of the cover letter indicates that a complete copy of the subject application was included in the documents sent to Mr. Sturino. In a telephone call with the U.S. counsel on 12 June 2008, Ms. Robin Teskin verifies that no response to this

letter has been received by the 37 CFR 1.47 applicants.

Nonetheless, the requirements of section 409.03(d) of the MPEP regarding a refusal are still not met. For a refusal to join to be accepted, the 37 CFR 1.47(a) applicants must present the nonsigning inventor with a complete copy of the application along with the documents to sign such as a declaration. *See In re Gray*, 115 USPQ 80 (Comm'r Pat 1956).

In this case, the 26 March 2008 letter to Mr. Sturino requests his opinion which group of claims (I, II or III) to elect in the subject patent application. The letter does not request that Mr. Sturino join in the above-captioned application by signing an oath or declaration. As such, there is no refusal to contemplate.

It is noted that in a telephone call initiated by the undersigned on 12 June 2008, counsel argues that the nonsigning inventor was previously given a declaration to sign and did not respond. All that was required was to provide the nonsigning inventor with a copy of the application. That is not the case. As noted in the prior decision:

> This conduct would be sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP if the nonsigning inventor was presented with a complete copy of the subject application also.

But Mr. Sturino was not presented with a complete copy of the application. Accordingly, the prior conduct of Mr. Sturino is irrelevant.

In this case, the 37 CFR 1.47(a) applicants have provided the nonsigning inventor with a complete copy copy of the subject application. Petitioners must now request that Mr. Sturino cooperate in the above-captioned application. A failure to respond by the nonsigning inventor may be considered conduct that constitutes a refusal to cooperate. *See* § 409.03(d) MPEP.

Item (2) of 37 CFR 1.47(a) is still not satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available.

Any further correspondence with respect to this matter may be filed electronically

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via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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07 OCT 2008

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In re Application of HOULBERG *et al* U.S. Application No.: 10/586,325 PCT No.: PCT/DK2005/00027 Int. Filing Date: 17 January 2005 Priority Date: 16 January 2004 Attorney Docket No.: 58982.000040 For: METHOD AND SYSTEM FOR COLORIMETRIC DETERMINATION OF A CHEMICAL OR PHYSICAL PROPERTY OF A TURBID	**DECISION**

This decision is in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 12 August 2008.

BACKGROUND

On 13 June 2008, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 12 August 2008, applicants filed a second renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a copy of a letter dated 22 July 2008 and copies of postal receipts.

DISCUSSION

In the second renewed petition, the 37 CFR 1.47(a) applicants provided evidence that a complete copy of the subject application was received by the nonsigning inventor on 26 July 2008. The documents provided to Joseph M. Sturino requested that he return a signed Declaration and Power of Attorney by 01 August 2008.

Applicants state in the petition that no response has been received. This evidence meets the requirements of section 409.03(d)(II) of the MPEP. Item (2) of 37 CFR 1.47(a) is satisfied.

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

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CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 January 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 September 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

07 OCT 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Joseph Sturino
4403 Springs Branch Court
College Station, TX 77845

In re Application of
HOULBERG *et al*
U.S. Application No.: 10/586,325
PCT No.: PCT/DK2005/00027
Int. Filing Date: 17 January 2005
Priority Date: 16 January 2004
Attorney Docket No.: 58982.000040
For: METHOD AND SYSTEM FOR COLORIMETRIC DETERMINATION OF A CHEMICAL OR PHYSICAL PROPERTY OF A TURBID

Dear Mr. Sturino:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

HUNTON & WILLIAMS LLP
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

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17 JUL 2008

YOUNG & THOMPSON
745 South 23rd Street
Second Floor
Arlington, Virginia 22202

In re Application of: ALVES et al.
U.S. Application No.: **10/586348**
PCT Application No.: PCT/FR2005/000093
International Filing Date: 14 January 2005
Priority Date Claimed: 15 January 2004
Attorney Docket No.: 0508-1167
For: METHOD FOR OVERPRODUCING A SPECIFIC RECOMBINANT PROTEIN WITH P.CINNABARINUS MONOKARYOTIC STRAINS

DECISION ON PETITION

This communication is responsive to the "Response to Notification of Defective Response" filed 28 May 2008, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 July 2006, applicant submitted national phase papers in the United States Designated/Elected Office (DO/EO/US). The papers provided PCT/FR2005/000093 as the international application number.

On 19 September 2007, the DO/EO/US mailed a *Notification of Corrected Papers under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)*, which indicates the following:

- This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825. And requires, *inter alia*, an initial paper copy of the sequence listing.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).
- Substitute drawings in compliance with 37 CFR 1.84 because drawing figures contain text that is not in English (including, for example, a flow chart that was originally not in English that has been marked up to include the English text) see 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1).

On 22 January 2008 applicant filed a response which includes:

- a copy of the sequence listing in computer readable form

- a paper copy of the sequence listing that consists of twenty-six (26) pages containing a list of eighteen (18) sequences ("twenty-six (26) page paper copy")
- a statement that the attached paper and computer readable copies have the same content, and introduce no new matter into the present application
- an instruction to enter the sequence listing into the application, and
- thirteen (13) sheets of substitute drawings (Figs. 1-12) in compliance with 37 CFR 1.84.

On 25 January 2008, the DO/EO/US mailed a first *Notification of Defective Response*, which indicates the application clearly fails to comply with the requirements of 37 CFR 1.821-1.825 and requires, *inter alia*, an initial paper copy of the sequence listing.

On 25 February 2008, applicant filed a response which alleged that the DO/EO/US had not acknowledged the 22 January 2008 response. In support, applicant provided a complete copy of the 22 January 2008 response and requested that the 22 January 2008 response be considered.

On 28 April 2008, the DO/EO/US mailed a second *Notification of Defective Response*, which indicates the following:

- Applicant's response was filed 10/17/2006.
- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content does not comply with 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked-up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing and, where applicable, includes no new matter.

On 28 May 2008, applicant filed a response which alleged that the marked-up "Raw Sequence Listing" was not received; however, applicant indicated that the response was prepared after reviewing the marked-up document using the Patent Application Information Retrieval (PAIR) system.

DISCUSSION

Upon investigation, the record reveals that a paper copy of the sequence listing was provided to the DO/EO/US by the International Bureau. In accordance with 37 CFR 1.821(c), the initial submission of the international application contained disclosures of sequences and contained, as a separate part of the disclosure, a paper copy of the sequence listing which consists of twenty-three (23) sheets containing a listing of sixteen sequences ("initial paper copy"). Thus, the requirement that applicant provide an initial paper copy of the sequence listing made in the 19 September 2007 *Notification of Corrected Papers under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)* was in error insofar as the initial paper copy of the sequence listing was received from the International Bureau.

The 25 January 2008 *Notification of Defective Response* is hereby VACATED because it was mailed prematurely, i.e., before the validation report for the 22 January 2008 computer readable form was completed.

In accordance with 37 CFR 1.821(e) the initial paper copy of the sequence listing must also be submitted in computer readable form that is in compliance with 37 CFR 1.824. In accordance with 37 CFR 1.821(f) a statement that the paper copy and the computer readable copy are the same must be submitted with the computer readable form. Applicant has not submitted a computer readable form of the initial paper copy of the sequence listing or a statement that the sequence listing information recorded in computer readable form is identical to the initial paper copy of the sequence listing. The computer readable form and statement submitted by applicant on 22 January 2008 are not submitted with regard to the initial paper copy, but instead refer to the twenty-six (26) page paper copy.

For reasons above, the copy of the sequence listing in computer readable form, the twenty-six (26) page paper copy of the sequence listing, and the statement received 22 January 2008 fail to comply with 37 CFR 1.821(e) and are not a proper response to the 19 September 2007 *Notification of Corrected Papers under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)*.

As a separate issue, the copy of the sequence listing in computer readable form submitted by applicant on 22 January 2008, when treated as a preliminary amendment, remains deficient because the computer readable form of the 22 January 2008 sequence listing contains errors (see attached 06 February 2008 validation/error report). Should applicant choose to submit a substitute computer readable form of the twenty-six (26) page paper copy of the sequence listing, the substitute computer readable form should be clearly distinguished from the computer readable form of the initial paper copy and the requisite statement should clearly identify the substitute computer readable form and relevant paper copy of the sequence listing.

CONCLUSION

The petition is **GRANTED to the extent** that the DO/EO/US has not previously notified applicant that a computer readable form of the initial paper copy of the sequence listing has not been received and that there is an inconsistency among the initial paper copy of the sequence listing, the computer readable form, and the twenty-six (26) page paper copy of the sequence listing.

Applicant is given **ONE (1) MONTH** from the mail date of this decision to provide a computer readable form of the initial paper copy of the sequence listing and a statement that the sequence listing information recorded in the computer readable form is identical to the initial paper copy of the sequence listing, in accordance with 37 CFR 1.821. Extensions of time may not be obtained under 37 CFR 1.136(a).

Correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, 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.

Tamara Graysay
PCT Special Program Examiner
Office of PCT Legal Administration
Telephone: (571) 272-6728
Facsimile: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Attachment: Validation/Error Report (regarding 22 January 2008 CRF), 11 pages

==========

Sequence Listing could not be accepted due to errors.

See attached Validation Report.

If you need help call the Patent Electronic Business Center at (866) 217-9197 (toll free).

Reviewer: Anne Corrigan

Timestamp: [year=2008; month=2; day=6; hr=16; min=4; sec=4; ms=286;]

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Reviewer Comments:

(from Sequence 1)

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The "125" above needs to be directly under "Gly" above it.

****

Validated By CRFValidator v 1.0.3

Application No: 10586348 Version No: 1.0

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Output Set:

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Finished: 2008-02-06 11:19:32.430
Elapsed: 0 hr(s) 0 min(s) 3 sec(s) 323 ms
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Total Errors: 5
No. of SeqIDs Defined: 18
Actual SeqID Count: 18

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E	320	Wrong Nucleic Acid Designator, cg in SEQID (1)
W	213	Artificial or Unknown found in <213> in SEQ ID (4)
W	213	Artificial or Unknown found in <213> in SEQ ID (5)
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SEQUENCE LISTING

<110> ALVES, ALEXANDRA M.C.R.
RECORD, ERIC
LOMASCOLO, ANNE
SIGOILLOT, JEAN-CLAUDE
ASTHER, MARCEL
WOSTEN, HAN A.B.

<120> METHOD FOR OVERPRODUCING A SPECIFIC RECOMBINANT PROTEIN
WITH P. CINNABARINUS MONOKARYOTIC STRAINS

<130> 0508-1167

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<141> 2008-02-06

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MAY 04 2010

OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

In re Patent No. 7,679,926	:	
Issued: March 16, 2010	:	
Application No. 10/586,361	:	NOTICE
Filed: July 18, 2006	:	
Attorney Docket No.: 3003-1183	:	

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 patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Nancy A. Pappas
Life Sciences, Inc.
2900 72nd Street, North
St. Petersburg FL 33710

COPY MAILED
NOV 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Simon Srybnik	:	
Application No. 11/586,362	:	DECISION ON PETITION
Filed: October 25, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SRY-1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 25, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

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 2834 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/586,368	10/25/2006	David C. Griffis	4276-063171	8976

10

SNM

28289 7590 03/07/2008
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

EXAMINER
STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
03/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

MAR 07 2008

TECHNOLOGY CENTER 3600

Oblon, Spivak, McClelland, Maier &Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of
Koji Hayashi et al
Application No. 10/586,368
Filed: July 18, 2006
For: CONTROL SYSTEM FOR HYBRID VEHICLES

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed January 2, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

In light of the preliminary amendment filed January 2, 2008 with the petition, the request to participate in the PPH pilot program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/5/08

18 AUG 2006

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Alexandria, VA 22313-1450
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Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3800

In re Application of	:	
Leising	:	
Application No.: 10/586,386	:	DECISION
PCT No.: PCT/EP04/51066	:	
Int. Filing Date: 09 June 2004	:	ON
Earliest Priority Date: 11 July 2003	:	
Attorney Docket No.: 00366.000214	:	PETITION
For: LED And LED Light Source	:	

The petition to revive under 37 CFR 1.137(b) filed 17 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b), the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i).

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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07 AUG 2006

Brendan Mee
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3800

In re Application of	:	
LEISING	:	
U.S. Application No.: 10/586,387	:	DECISION ON PETITION
PCT No.: PCT/EP04/51065	:	
Int. Filing Date: 09 June 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 18 June 2003	:	
Attorney Docket No.: 00366.000213	:	
For: METHOD FOR THE PRODUCTION OF WHITE	:	
LED LIGHT SOURCE	:	

The petition to revive under 37 CFR 1.137(b) filed 17 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 2 0 2009

In re Application of	:	
Okabe, Toji, Kishi, & Yahara et al	:	NOTICE OF WITHDRAWAL
Serial No.10/586406	:	FROM ISSUE
Filed: May 31, 2007	:	UNDER 37 CFR 1.313(b)
For: INFLAMMATORY CYTOKINE INHIBITORS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

John L. LeGuyader, Director
Technology Center 1600

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

cc: Allowed Files
Drafting Branch

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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MAR 0 1 2010

OFFICE OF PETITIONS

HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN NJ 07041

In re Application of	:	
Van Eis, et al.	:	ON APPLICATION FOR
Application No. 10/586,420	:	PATENT TERM ADJUSTMENT
Filed: July 19, 2006	:	
Atty Docket No. NOV-05-US	:	

This is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT REDETERMINATION UNDER 37 CFR 1.705," filed September 28, 2009. Applicants request that the determination of patent term adjustment be increased from 281 days to at a minimum 316 days.

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and prior to payment of the issue fee. Thus, the application for patent term adjustment was timely filed. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under

§1.18(e). Applicants are not precluded from promptly paying the required fee for consideration of this application for patent term adjustment. Applicants should call the undersigned upon submission of such fee.

The issue and publication fees were paid on December 15, 2009. Therefore, the Office of Data Management will be advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Knobbe, Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Sriskanthan Nadarajah	:	
Application No. 10/586,423	:	DECISION ON PETITION
Filed: July 18, 2006	:	TO WITHDRAW
Attorney Docket No. RAJAH4.001APC	:	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 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Daniel Hart on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rajah and Tann**
4 Battery Road, #26-00
Bank of China Building
Singapore, 049908

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/586,423	07/18/2006	Sriskanthan Nadarajah	RAJAH4.001APC

CONFIRMATION NO. 4863

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000027780440

Date Mailed: 01/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

MAIL

MAR 21 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of TOMA, TADAMASA Application No. 10/586,442 Filed: July 18, 2006 Attorney Docket No. 2006_0814A	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 5, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

16 APR 2009

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United States Patent and Trademark Office
P.O. Box 1450
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24628
HUSCH BLACKWELL SANDERS WELSH & KATZ
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606-3912

In re Application of
NAKAMURA *et al*
U.S. Application No.: 10/586,445
PCT No.: PCT/JP2005/001114
Int. Filing Date: 27 January 2005
Priority Date: 27 January 2004
Attorney Docket No.: 1110/97825
For: METHOD FOR PREDICTING PRECIPITATION BEHAVIOR OF OXYGEN IN SILICON SINGLE CRYSTAL, . . .

DECISION

This decision is in response to the papers filed 20 February 2009 which are treated as a petition under 37 CFR 1.182 to correct papers.

BACKGROUND

On 17 July 2006, applicants filed papers to enter the national stage of a PCT application. The transmittal letter (PTO-1390) indicated that the underlying international application is JP 2004-018313.

On 20 February 2009, applicants filed the subject petition and a replacement copy of the PTO-1390.

DISCUSSION

In the papers filed 20 February 2009, applicants filed a letter titled "Correction" to submit a new PTO-1390 form to "correct unintentional defects." Specifically, the international application number is now listed on the PTO-1390 form as PCT/JP2005/001114.

The subject papers are treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 23-0920 as authorized.

A review of the initial papers filed 17 July 2006 show that the declaration and ADS identified the PCT number as PCT/JP2005/001114. Moreover, the title, applicants and filing date on the transmittal letter correspond to PCT/JP2005/001114. Thus, it is clear that applicants intended to file a national stage application of PCT/JP2005/001114

on 17 July 2006 but for the error on the PTO-1390.

This is sufficient for a grantable petition under 37 CFR 1.182.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The above-captioned application is the national stage of PCT/JP2005/001114.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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AUG 10 2007

FINNEGAN HENDERSON, FARABOW GARRETT
& DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:	
Yoshihiro Nishioka et al	:	
Serial No.: 10/586,453	:	DECISION ON PETITION
Filed: July 21, 2006	:	
Attorney Docket No.: 05273.0100	:	

This letter is in response to the Petition under 37 C.F.R. 1.181, requesting acknowledgement of the receipt from the International Bureau of the priority document.

A review of the application shows that this is an unexamined application. The filing requirements under 35 U.S.C. 371 were met on the date noted above as evidenced by Form 903 having been sent to applicants on March 30, 2007. Acknowledgement of receipt of a claim to foreign priority and receipt of the priority document is normally acknowledged by the examiner at the time of the first Office action. Although Form 903 does not indicate receipt of the priority document, a review of the file shows that it has been received from the International Bureau and has been placed in the application file.

The petition is **DISMISSED** as moot for the reasons set forth above.

The application will be forwarded to the examiner for examination in turn.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/04/2010

Applicant	: Stefan Baldauf	: DECISION ON REQUEST FOR
Patent Number	: 7607889	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,462	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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November 12, 2009

Patent No. : 7,579,500 B2
Ser. No. : 10/586,491
Inventor(s) : Himmler
Issued : August 25, 2009

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 mater, is hereby denied.

A certificate of correction will issue for the remaining error noted in your request.

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
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

RoChaun Johnson
For Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
571 272-0470

Cynthia M. Bouchez
1100 New York Avenue, NW
Washington DC 20005-3934

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,579,500 :
Issue Date: August 25, 2009 :
Application No. 10/586,491 : DECISION ON PETITION
Filed: July 20, 2006 :
Attorney Docket No. 2400.0650000/SRL :

This is a decision on the petition, filed, January 26, 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 "Bayer CropScience AG, Monheim, GERMANY (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 "Bayer CropScience AG" 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 undersigned at (571) 272-3205. 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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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13 SEP 2007

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of: BARBANTI, et al. U.S. Application No.: 10/586,494 PCT No.: PCT/EP2005/000514 Int'l Filing Date: 20 January 2005 Priority Date: 21 January 2004 Attorney's Docket No.: 2503-1224 For: ALPHA-AMINOAMIDE DERIVATIVES USEFUL IN THE TREATMENT OF LOWER URINARY TRACT DISORDERS	DECISION ON PETITION (37 CFR 1.47(a))

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)," filed 25 January 2007. Deposit Account No. 25-0120 will be charged the required petition fee.

BACKGROUND

On 20 January 2005, applicants filed international application PCT/EP2005/000514. The international application claimed a priority date of 21 January 2004, and it designated the United States. On 04 August 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 21 July 2006.

On 20 July 2006, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 25 January 2007, applicants filed a declaration executed by five of the six inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Orietta VENERONI, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4)

factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to Deposit Account No. 25-0120 for the required $200 petition fee. Accordingly, item (1) is satisfied.

The petition expressly states the last known address of the non-signing inventor. Accordingly, item (2) is 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 five of the six inventors and including an unsigned signature box for the non-signing inventor. This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition provides a firsthand statement, with supporting documents, demonstrating that a request for signature, accompanied by a copy of the complete application, was forwarded to the non-signing inventor at her last known address, that the inventor signed for receipt of the envelope containing such materials, and that the inventor failed to provide the requested signature in reply to this request. The request for signature stated that the failure to respond would be considered a refusal to execute the documents. In addition, the petition materials also include a statement from the inventor, through her attorney, stating that she "did not see any reason why she should sign further assignment documents" with respect to the present application. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of inventor Orietta VENERONI.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the non-signing inventor at her last-known address, as set forth in the petition.

The 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 25 January 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

6-29-2010

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,674,945
Ser. No. : 10/586,510
Inventor(s) : Yigong He, et. al.
Issued : March 9, 2010

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.

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 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Kenneth J. Smith
Calfee, Halter & Griswold LLP
800 Superior Ave., Ste. 1400
Cleveland Ohio 44114

ej

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Je-Kang Yoo	: DECISION ON REQUEST FOR
Patent Number	: 7598296	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **557** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450

27 SEP 2006

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

In re Application of: DARLEY, Ian, et al. U.S. Application No.: 10/586,524 Int'l Application No: PCT/US2004/043288 Int'l Filing Date: 27 December 2004 Claimed Priority Date: 24 December 2003 Atty Docket No.: COCH-0125-US1 For: TRANSFORMABLE SPEECH PROCESSOR MODULE FOR A HEARING PROSTHESIS	DECISION ON PETITIONS UNDER 37 CFR 1.137(B) AND 37 CFR 1.182

The present decision is issued in response to applicants' 19 July 2006 filing of the "Petition For Revival Of An International Application Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" and the document entitled "Evidence Regarding Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," which requests correction of the claimed priority date and is treated herein as a petition under 37 CFR 1.182.

Applicants have paid the petition fee for the petition under 37 CFR 1.137(b). Deposit Account No. 10-0233 will be charged the $400 petition fee required for the petition under 37 CFR 1.182.

BACKGROUND

On 27 December 2004, applicants filed international application PCT/US2004/043288. The international application claimed priority to Australian Provisional Application No. AU2003907138. In the PCT Request filed 27 December 2004, applicants identified the filing date of this priority application as 24 December 2004; however, the correct filing date for the priority application is 24 December 2003. The priority date was not corrected during the processing of the international application.

On 19 July 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, the petition for revival under 37 CFR 1.137(b) considered herein, and the correspondence treated herein as a petition under 37 CFR 1.182 to correct the priority date for purposes of the present national stage application.

DISCUSSION

1. Petition Under 37 CFR 1.182 To Correct Priority Date:

Applicants state that, as the result of a typographical error, the filing date of the Australian priority application listed in the PCT Request (Form PCT/RO/101) filed 27 December 2004 was entered in error. Specifically, applicants' identified the priority date as 24 December 2004, rather than 24 December 2003. This error was not corrected during the international phase. Applicants now request that, for purposes of the present U.S. national stage application, the priority date be corrected to 24 December 2003.

Because the error in the claimed priority date resulted from applicants' error, correction of the error requires a petition under 37 CFR 1.182. Such a petition requires payment of the required petition fee and an acceptable explanation regarding the error in the priority date claimed and the appropriateness of the requested correction.

Here, applicants have authorized a charge for required fees and have provided an adequate explanation regarding the desired correction (in addition, a review of the certified copy of the priority application confirms that the correct filing date for this application is 24 December 2003). These materials satisfy the requirements for a grantable petition. Correction of the claimed priority date herein to 24 December 2003, the actual filing date of the Australian priority application, is therefore appropriate.

2. Petition For Revival Under 37 CFR 1.137(b):

Based on the corrected priority date of 24 December 2003, international application PCT/US2004/043288 became abandoned as of midnight on 24 June 2006, i.e., thirty months after the priority date. Revival of the application is therefore required.

The petition to revive under 37 CFR 1.137(b) filed 19 July 2006 in the above-captioned application is appropriately granted, as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee and the required petition 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.

CONCLUSION

The petition under 37 CFR 1.182 to correct the claimed priority date from 24 December 2004 to 24 December 2003 is **GRANTED**.

The petition for revival under 37 CFR 1.137(b) is **GRANTED**.

Deposit Account No. 10-0233 will be charged the $400 petition fee required for the petition under 37 CFR 1.182.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months 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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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Slater & Matsil, L.L.P.
17950 Preston Road, Suite 1000
Dallas, TX 75252

Mail Date: 04/26/2010

Applicant	: Defeng Li	: DECISION ON REQUEST FOR
Patent Number	: 7650637	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **452** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Christopherus Bader	: DECISION ON REQUEST FOR
Patent Number	: 7644620	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **220** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HUSCH BLACKWELL SANDERS, LLP
Husch Blackwell Saunders LLP Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago, IL. 60606

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OFFICE OF PETITIONS

In re Application of	:	
Ehud GAL et al	:	
Application No. 10/586,632	:	DECISION ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. 1110/97849	:	

This is a decision on the petition, filed May 15, 2008 under 37 CFR 1.137(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) asre permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application was held abandoned for failure to timely respond to the Notice to File Missing Parts mailed February 13, 2007, which set a two (2) month time period for reply. Accordingly, a reply was due on or before April 13, 2007.

Petitioner states that a timely and reply was mailed on March 13, 2007, which included the Response to Notice to File Missing Parts (Notice). A proper reply would include an Oath or Declaration in compliance with 37 CFR 1.497(a) and (b), and the Surcharge in the amount of $65.00, as requested in the Notice. The Oath and Surcharge fee was not submitted.

The file record does not include the originally submitted papers for March 13, 2007. A review of the file history indicates that the Office did not receive any communication from the petitioner after March 13, 2007 that would be a response to the Notice.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 13, 2007 is proper.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to Thurman K. Page at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS, LLP
Husch Blackwell Saunders LLP Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago, IL. 60606

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OFFICE OF PETITIONS

In re Application of	:	
Ehud GAL et al	:	
Application No. 10/586,632	:	DECISION ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. 1110/97849	:	

This is a decision on the renewed petition, filed January 22, 2009 under 37 CFR 1.137(b), requesting withdrawal of the holding of abandonment in the above-identified application. The petition will be considered under 37 CFR 1.8(b).

The petition is **GRANTED**.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The response files January 22, 2009 is sufficient to meet the requirements of 37 CFR 1.8(b).

The application is being forwarded to Office of Patent Application Processing (OPAP) for continued processing.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,640	07/19/2006	Shigeru Kaneda	293521US8PCT	6077

22850 7590 02/05/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DAGLAWI, AMAR A

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
02/05/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
KANEDA, SHIGERU et al
Application No. 10/586,640
Filed: July 19, 2006
For: **USER GUIDANCE SYSTEM, MOBILE COMMUNICATION TERMINAL, AND USER GUIDANCE METHOD**

DECISION ON REQUEST
FOR CONSIDERATION OF IDS

This is a decision on the petition, filed December 31, 2009, under 37 CFR 1.181 to consider the references included with the Information Disclosure Statements filed November 17, 2009 and December 01, 2009.

Petitioner states,

> "Information Disclosure Statements in conformity with the requirements of 37 C.F.R. §1.97-1.98 were filed on November 17, 2009 and December 1, 2009. Copies of the Information Disclosure Statements and the related papers are in PAIR. The above-referenced application has been allowed. The references cited in the former Information Disclosure Statements were never acknowledged or made of record by the examiner."

A review of the application file reveals that a Notice of Allowance and a Notice of Allowability were mailed for the above-identified application on October 02, 2009, which was prior to the filing of the above referenced Information Disclosure Statements. Subsequent to the filing of the above noted Information Disclosure Statements, there has been no indication that the Information Disclosure Statements were considered by the examiner.

Therefore, the petition is **GRANTED**.

The application file is being forwarded to the examiner for consideration of the Information Disclosure Statements filed on November 17, 2009 and December 01, 2009.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. Box 1450
Alexandria, VA 22313-1450
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16 JAN 2009

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of YAZAKI et al. Serial No.: 10/586,673 PCT No.: PCT/JP05/00222 Int. Filing Date: 12 January 2005 Priority Date: 23 January 2004 Atty. Docket No.: 4776-0103PUS1 For: WHEEL CONVEYOR	DECISION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 20 July 2006, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee, an executed declaration/power of attorney and an English translation of the international application, meeting the requirements under 35 U.S.C. 371(c).

On 18 June 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was issued indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required. The Notification indicated that an error was noted in the declaration as the United States Application Number was not filled in. Clarification of the error was requested

A response to the Form 905 was filed on 18 August 2008 indicating that "the date '06/30/06' was inadvertently included on the Declaration filed on July 20, 2006....a minor error". On 17 September 2008, applicant filed a newly executed declaration along with the $130 surcharge for filing the declaration after the thirty month period.

On 26 September 2008, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371(c)(2) and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 September 2008.

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 20 July 2006. In light of the above, the Notification of Acceptance (Form PCT/DO/EO/903) issued on 26 September 2008 is hereby **VACATED**. The $130 surcharge for filing the declaration after the thirty month period is unnecessary and refunded.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision, including issuance of a Notification of Acceptance and filing receipt. The 35 U.S.C. 371(c)(1), (c)(2) (c)(4) and (c)(5) date of date is **20 July 2006.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

Mail Date: 04/20/2010

Applicant	: Ryotaro Kudo	: DECISION ON REQUEST FOR
Patent Number	: 7663354	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **694** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
SUGA, Tadatomo et al.	:	
Application No. 10/586,690	:	DECISION ON PETITION
Filed: July 20, 2006	:	TO WITHDRAW
Attorney Docket No. **YANE-0003-US1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney filed March 06, 2009 reinstates Steven B. Kelber, Registration No. 30,073, as an attorney of record in the above patent application. 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 above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/20/2010

Applicant	: Mitsuru Kitamura	: DECISION ON REQUEST FOR
Patent Number	: 7573622	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GREER, BURNS & CRAIN
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In re Application of	:	
Lacombe, et al.	:	
Application No. 10/586,716	:	ON PETITION
Filed: July 20, 2006	:	
Attorney Docket No. 1606.75589	:	

This is a decision on the petition under 37 CFR 1.59 filed July 17, 2008, requesting the Office expunge a portion of the application file.

The petition is **granted**.

Petitioners request the removal of a July 11, 2008 translation of International Preliminary Report on Patentability for a different application. In short, the document was filed in an incorrect application.

Petitioners have established to the satisfaction of the Office that removal of is appropriate.

The July 11, 2008 translation of International Preliminary Report on Patentability has been expunged from the application file.

After the mailing of the present decision, the application will be referred to Technology Center AU 2873.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Johann Magg	: DECISION ON REQUEST FOR
Patent Number	: 7650832	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,717	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **748** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

19 DEC 2007

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of AWENGEN et al	:	
U.S. Application No.: 10/586,718	:	
PCT Application No.: PCT/EP2004/014189	:	
Int. Filing Date: 13 December 2004	:	COMMUNICATION
Priority Date Claimed: 06 March 2004	:	
Attorney Docket No.: 3812	:	
For: CATIONIC NAPHTHYLDIAZO DYES AND	:	
AGENTS CONTAINING SAID DYES USED	:	
TO COLOUR KERATIN FIBRES	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 13 December 2004, applicant filed international application PCT/EP2004/014189, which claimed priority of an earlier Germany application filed 06 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 15 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 September 2006.

On 20 July 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).

DISCUSSION

The filing date, priority date, title of invention, and names of applicants listed on the transmittal letter (Form PTO-1390) filed 13 December 2004 are inconsistent with the corresponding data published for international application number PCT/EP2004/014189.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication, resolving the discrepancies noted above. A proper response may include an appropriate petition under 37 CFR 1.182 to correct the transmittal letter. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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ALEXANDRIA, VA 22313-1450
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18 JAN 2008

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of AWENGEN et al	:	
U.S. Application No.: 10/586,718	:	
PCT Application No.: PCT/EP2005/000528	:	
Int. Filing Date: 20 January 2005	:	DECISION
Priority Date Claimed: 23 January 2004	:	
Attorney Docket No.: 3812	:	
For: AUDITORY OSSICLE PROSTHESIS WITH	:	
TUNING OPTION	:	

This is in response to the "Petition Under 37 CFR 1.182 to Correct Transmittal Letter" filed 09 January 2008.

BACKGROUND

On 20 January 2005, applicant filed international application PCT/EP2005/000528, which claimed priority of an earlier Germany application filed 23 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 04 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 July 2006.

On 20 July 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 19 December 2007, this Office mailed a communication which identified certain discrepancies with regard to the international application number and bibliographic data.

On 09 January 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The transmittal letter (Form PTO-1390) filed 13 December 2004 listed "PCT/EP2004/014189" as the international application number. However, the filing date, priority date, title of invention, and names of applicants listed on the transmittal letter were

inconsistent with the corresponding data published for international application number PCT/EP2004/014189. The present petition states that the mistakes on the originally filed transmittal letter were inadvertent and made without deceptive intent. Applicant's explanation for the error is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper oath or declaration in compliance with 37 CFR 1.497 must be filed.[1]

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

[1] Applicant is advised that the declaration filed 20 July 2006 does not properly identify the application to which it is directed.

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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WILLIAM H. HOLT
LAW OFFICES OF WILLIAM H. HOLT
12311 HARBOR DRIVE
WOODBRIDGE, VA 22192

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
William M. Heyn	:	
Application No. 10/586,723	:	ON PETITION
Filed: July 17, 2006	:	
Attorney Docket No. WHP-P1-PCT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on April 17, 2009. A Notice of Abandonment was mailed 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3725 for further examination on the merits.

Thurman K. Page for

Chris Bottorff
Petitions Examiner
Office of Petitions

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STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

MAIL

JUL 13 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Joachim LOHR, et al.
Application No. 10/586,736
Filed: January09, 2007
For: **METHOD OF HARQ RETRANSMISSION TIMING CONTROL**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 31, 2006, under Manual of Patent Examination Procedure §708.02, VIII, requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

2 8 DEC 2007

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
NAGAYAMA, Kuniaki et al.	:	
Application No.: 10/586,750	:	DECISION ON
PCT No.: PCT/US2005/003775	:	
Int. Filing Date: 07 February 2005	:	PETITION
Priority Date: 06 February 2004	:	
Attorney Docket No.: 15934-005US1	:	UNDER 37 CFR 1.182
For: COMPLEX POINTILLISTIC	:	
MULTICOLOR PRINTING	:	

This decision is in response to applicants' Petition Under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 30 October 2007. The petition fee will be charged to deposit account no. 06-1050, as authorized.

BACKGROUND

On 06 July 2006, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The papers listed international application no. PCT/US2005/003755 on the transmittal letter, but listed international application no. PCT/US2005/003775 on the preliminary amendment.

On 30 March 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required. The Notification set a two month period for response.

On 01 August 2007, applicants filed a declaration of the inventor, accompanied by the surcharge and the fee for a three month extension of time.

On 27 August 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration did not list the correct inventors for PCT/US2005/003755.

On 30 October 2007, applicants submitted a petition under 37 CFR 1.182 to correct the national stage information in the above application to indicate it is a 371 filing of PCT/US2005/003775.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/US2005/003775. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/US2005/003775.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of Patent Application Processing for continued processing consistent with this decision, including mailing of a corrected filing receipt. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 01 August 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Yong-Chul Kim	: DECISION ON REQUEST FOR
Patent Number	: 7572923	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,780	: 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 **117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

1 1 SEP 2009

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	DECISION
HIROOKA et al.	:	
Application No.: 10/586,789	:	
PCT No.: PCT/JP2005/000782	:	
Int. Filing Date: 21 January 2005	:	
Priority Date: 23 January 2004	:	
Attorney Docket No.: 128819	:	
For: GEAR MECHANISM AND ROBOT	:	
HAVING THE SAME	:	

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 21 January 2009, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 21 January 2005, applicant filed international application PCT/JP2005/000782 which designated the US and claimed a priority date of 23 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 04 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 July 2006.

On 20 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 17 August 2006, applicants filed a submission including a copy of a declaration of inventors.

On 03 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 17 August 2007.

DISCUSSION

The declaration of inventors filed 17 August 2006 is in compliance with 37 CFR 1.497(a)-(b). The NOTICE OF ACCEPTANCE OF APPLICATION mailed 03 October 2007 contained the incorrect international 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 date. Thus, the NOTICE OF ACCEPTANCE is hereby VACATED.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTICE OF ACCEPTANCE mailed 03 October 2007 is **VACATED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for (1) mailing of a corrected NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) indicating both the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and the 35 U.S.C. 371 dates as **17 August 2006**.

/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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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Gero Schollmeier, et al.
Application No. 10/586,796
Filed: July 20, 2006
Attorney Docket No. 0039090-00068

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 31, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dickinson Wright, PLLC has been revoked by the assignee of the patent application on June 10, 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 address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Herold et al.	:	
Application No. 10/586814	:	
Filing or 371(c) Date: 07/24/2006	:	ON PETITION REGARDING
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
2006_0979A	:	

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 22, 2010. Applicants applies for a the Patent Term Adjustment of 585 days, not 403 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants' 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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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 the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

CC: NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02139

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

2 8 SEP 2007

United States Patent and Trademark Office

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:	
Flohr et al.	:	
Application No.: 10/586,816	:	DECISION
PCT No.: PCT/EP05/50105	:	
Int. Filing Date: 12 January 2005	:	ON
Priority Date: 20 January 2004	:	
Attorney Docket No.: 1033275-000487	:	PETITION
For: Premixing Burner Arrangement For	:	
Operating A Combustion Chamber	:	
And Method For Operating A Com...	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 04 April 2007.

BACKGROUND

This international application was filed on 12 January 2005, claimed an earlier priority date of 20 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 08 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 July 2006. Applicants filed *inter alia* the basic national fee on 20 July 2006.

DISCUSSION

Petitioner refers to the instant petition as a copy of a petition filed on "06 December 2006." Inspection of both the petition filed on 01 December 2006 and the instant petition filed on 04 April 2007 reveals that neither petition was directed toward the instant application; instead, both petitions were directed toward application no. 11/586,816. The instant petition is being treated on the merits in view of applicants' correspondence filed on 04 April 2007, directed to the instant application and requesting treatment of the petition.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee was paid on 01 December 2006, and applied to application no. 11/586,816. That petition fee is being applied to the instant application.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that "joint inventor Christian Oliver Paschereit has refused to sign the Declaration." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Review of the "Declaration... of Anett Fabian" accompanying the petition states in part that on "November 23, 2003, I had a telephone conversation with Mr. Paschereit. During our conversation, Mr. Paschereit stated to me that he would refuse to sign any kind of papers for any kind of application in the future." However, it does not appear that Dr. Paschereit made this refusal after having received an oath or declaration document for execution and a complete copy of the instant application papers. In this regard, petitioner presents a "Declaration... of Yvonne Egger" stating that a letter was sent to Dr. Paschereit on 27 July 2006. Though Ms. Egger states that "a complete copy of the above-identified application, Declaration and Assignment" accompanied the 27 July 2006 letter, petitioner has not provided an English translation of this letter. As such, it has not been established within the meaning of 37 CFR 1.47(a) that Dr. Paschereit has "refused" to execute the instant application.

Regarding **requirement (3)**, the petition includes a statement of Dr. Paschereit's last known address. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the declaration of inventorship accompanying the instant petition is not acceptable because it does not properly identify the application to which it is directed (e.g., by application number). As such, requirement (4) has not been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

09/28/2007 SBASHEIR 00000005 10586816
01 FC:1463 200.00 OP

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27 DEC 2007

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:	
Flohr et al.	:	
Application No.: 10/586,816	:	DECISION
PCT No.: PCT/EP05/50105	:	
Int. Filing Date: 12 January 2005	:	ON
Priority Date: 20 January 2004	:	
Attorney Docket No.: 1033275-000487	:	PETITION
For: Premixing Burner Arrangement For	:	
Operating A Combustion Chamber	:	
And Method For Operating A Com...	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 26 November 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.47(a) filed on 04 April 2007 was dismissed without prejudice because

> Regarding **requirement (2)**,... review of the "Declaration... of Anett Fabian" accompanying the petition states in part that on "November 23, 2003, I had a telephone conversation with Mr. Paschereit. During our conversation, Mr. Paschereit stated to me that he would refuse to sign any kind of papers for any kind of application in the future." However, it does not appear that Dr. Paschereit made this refusal after having received an oath or declaration document for execution and a complete copy of the instant application papers. In this regard, petitioner presents a "Declaration... of Yvonne Egger" stating that a letter was sent to Dr. Paschereit on 27 July 2006. Though Ms. Egger states that "a complete copy of the above-identified application, Declaration and Assignment" accompanied the 27 July 2006 letter, petitioner has not provided an English translation of this letter. As such, it has not been established within the meaning of 37 CFR 1.47(a) that Dr. Paschereit has "refused" to execute the instant application.
>
> Regarding **requirement (4)**, the declaration of inventorship accompanying the instant petition is not acceptable because it does not properly identify the application to which it is directed (e.g., by application number). As such, requirement (4) has not been satisfied.

In response, petitioner has provided a declaration of Yvonne Egger indicating that a copy of the application papers and a declaration were sent to Dr. Paschereit's last known address on 27 July 2006, and has provided a copy and English translation of the letter in question. Based on the totality of the evidence currently of record (also including the declaration signed by Anett Fabian describing an earlier, general statement of refusal by Dr. Paschereit), it would be appropriate to conclude that requirement (2) has been satisfied.

Regarding **requirement (4)**, the petition is accompanied by a declaration signed by co-inventor Peter Flohr on behalf of himself and Dr. Paschereit. This declaration satisfies requirement (4).

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 Deposit Account 02-4800, per the authorization in the 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 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 **26 November 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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COMMISSIONER FOR PATENTS
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27 MAY 2009

ARTHUR G. SCHAIER
CARMODY & TORRANCE LLP
50 LEAVENWORTH STREET
P.O. BOX 1110
WATERBURY, CT 06721

In re Application of NAGAI	:	
U.S. Application No.: 10/586,818	:	
PCT Application No.: PCT/JP2005/003331	:	
Int. Filing Date: 28 February 2005	:	DECISION
Priority Date Claimed: 26 February 2004	:	
Attorney Docket No.: 26281-22A	:	
For: METHOD OF DEVELOPING AND	:	
DEVELOPMENT PROCESSOR	:	

This is in response to applicant's "Request for Corrected 903 Form" filed 22 January 2009, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 February 2005, applicant filed international application PCT/JP2005/003331, which claimed priority of an earlier Japan application filed 26 February 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 09 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 26 August 2006.

On 20 July 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 28 May 2008, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 22 January 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The present petition requests that the Notice of Acceptance of Application be corrected to indicate receipt of the copy of the priority application. A review of the international application reveals that the priority document was timely filed with the International Bureau.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which should indicate that the copy of the priority application has been received.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/26/2010

Applicant	: Tetsuji Omura	: DECISION ON REQUEST FOR
Patent Number	: 7572162	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,821	: OF WYETH
Filed	: 07/19/2006	:
		:

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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CANTOR COLBURN, LLP
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Mail Date: 05/17/2010

Applicant : Tetsuji Omura
Patent Number : 7572162
Issue Date : 08/11/2009
Application No : 10/586,821
Filed : 07/19/2006

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** 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 1.18(e), the 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 deterimation 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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Dan Peters	: DECISION ON REQUEST FOR
Patent Number	: 7662808	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,836	: 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 **577** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 OCT 2007

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of
LUCAS et al.
U.S. Application No. 10/586,842
PCT No.: PCT/AU05/00061
Int. Filing Date: 20 January 2005
Priority Date: 20 January 2004
Attorney Docket No.: 03164.0203USWO
For: METHOD AND APPARATUS FOR TESTING FIBRES

DECISION ON REQUEST

This decision is issued in response to applicants' "Communication Regarding Notification of Defective Response" filed 27 September 2007 which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d). The $130 petition fee has been charged to counsel's deposit account.

BACKGROUND

On 20 January 2005, applicants filed international application no. PCT/AU05/00061 which claimed a priority date of 20 January 2004. The international application named Stuart Lucas and Stuart Gordon as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 July 2006.

On 20 July 2006, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 02 April 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 24 April 2007, applicants filed "Communication Regarding Submission of Missing Requirements" which included a Combined Declaration and Power of Attorney executed by: Stuart Lucas, Stuart Gordon and Nicole Phair-Sorensen.

On 27 August 2007, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 24 April 2007 was defective because it indicated additional inventors not listed on the published international application.

On 27 September 2007, applicants filed "Communication Regarding Notification of Defective Response" which is being treated as a Petition under 37 CFR 1.497(d).

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Nicole Phair-Sorensen to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to item (1), applicants have submitted a statement from the inventor being added, Nicole Phair-Sorensen, in which the inventor states that the earlier error in inventorship did not result from deceptive intent on her part. Item (1) is therefore satisfied.

With respect to item (2), applicants have submitted the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants have submitted a statement of consent to the change of inventorship executed on behalf of the assignee, Commonwealth Scientific and Industrial Research Organization. This consent is accompanied by a Statement under 37 CFR 3.73(b). Item (3) is therefore satisfied.

Item (4) does not apply to the present application.

Accordingly, applicants have satisfied all the requirements for correction of inventorship under 37 CFR 1.497(d).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Hisayuki Miki	: DECISION ON REQUEST FOR
Patent Number	: 7601979	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,849	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Kiyotaka Kuzushima	: DECISION ON REQUEST FOR
Patent Number	: 7619058	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,852	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **567** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

MAY 21 2009

OFFICE OF PETITIONS

Applicant: Pinza
Appl. No.: 10/586,865
International Filing Date: January 13, 2005
Title: IBOPAMINE MALEATE, METHOD FOR PREPARING IT AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT
Attorney Docket No.: 292919US0PCT
Pub. No.: 2008/02402724 A1
Pub. Date: October 2, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 12, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the benefit claim data to the Italian application is incorrect and the assignee's address is incomplete.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in the foreign priority claim on the front page of the publication wherein "MI2004A000146" is misprinted as "M12004A000146" may be an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

With respect to the assignee information, the complete address is not printed. Furthermore, an error in the assignment information is not considered a material mistake as required by 37 CFR 1.221(b). See MPEP 1130.

On June 23, 2008 a Filing Receipt was mailed by the Office, which listed the assignment information and the foreign priority information. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a corrected filing receipt prior to export of the publication to the publisher.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Mail Date: 04/27/2010

Applicant	: Hiroshi Kishi	: DECISION ON REQUEST FOR
Patent Number	: 7585414	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,889	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **544** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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25 AUG 2006

LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of	:	DECISION ON
MAUS et al	:	
Application No. 10/586,891	:	
PCT No.: PCT/EP2005/000082	:	
Int. Filing Date: 7 January 2005	:	PETITION UNDER
Priority Date: 13 January 2004	:	
Attorney's Docket No.: E-81179	:	
For: Honeycomb Body ...	:	
Counter Structures	:	37 CFR 1.137 (b)

This decision is in response to applicants' "PETITION FOR REVIAVAL OF AN INTERNATIONAL APPLICATION UNINTENTIONALLY ABANDONED APPLICATION," filed on 21 June 2006.

BACKGROUND

On 17 January 2005, this international application was filed, claiming an earliest priority date of 13 January 2004. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 July 2006.

On 21 July 2006, applicant filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee and a petition under 37 CFR 1.137(b) and the petition fee. No executed declaration or oath was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national 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) - (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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-11-09

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/586,843 Patent No.: 7345750

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check claims

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

Ennis Williams
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: _____

Edward Look
SPE

3745
Art Unit

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0 3 AUG 2007

Marina L. Gordey
Knobbe, Martens, Olson and Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 93401

In re Application of	:	
Moolman, et al.	:	
Application No.: 10/586,894	:	DECISION
PCT No.: PCT/IB2005/000192	:	
Int. Filing Date: 27 January 2005	:	
Priority Date: 28 January 2004	:	
Attorney's Docket No.: ADADA4.001APC	:	
For: STABILIZATION OF ENZYMES	:	

This application comes before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 27 January 2005, applicants filed international application PCT/IB2005/000192, which claimed priority of an earlier South African application filed 28 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 September 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 July 2006.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a declaration and the requisite basic national fee as required by 35 U.S.C. 371(c). This application was assigned U.S. serial number 10/586,894.

DISCUSSION

MPEP 1893.01(e) states, in part:

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name.

37 CFR 1.497(d) states:

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, 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 § 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

A review of the application file reveals that the applicant/inventor known as Avashnee Shamparkesh Sewllall in the international application has since married and changed her name to Avashnee Shamparkesh Chetty. Applicant is required to file a proper petition under 37 CFR 1.182, along with the $400 petition fee, in order to resolve this matter.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182," and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

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Marina L. Gordey
Knobbe, Martens, Olson and Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

In re Application of	:	
Moolman, et al.	:	
Application No.: 10/586,894	:	DECISION
PCT No.: PCT/IB2005/000192	:	
Int. Filing Date: 27 January 2005	:	
Priority Date: 28 January 2004	:	
Attorney's Docket No.: ADADA4.001APC	:	
For: STABILIZATION OF ENZYMES	:	

This is a decision in response to the "PETITION TO CHANGE NAME OF INVENTOR" filed on 05 September 2007. The petition fee of $400 has been paid.

BACKGROUND

On 27 January 2005, applicants filed international application PCT/IB2005/000192, which claimed priority of an earlier South African application filed 28 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 September 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 July 2006.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a declaration and the requisite basic national fee as required by 35 U.S.C. 371(c). This application was assigned U.S. serial number 10/586,894.

DISCUSSION

MPEP 1893.01(e) states, in part:

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name.

A review of the application file reveals that the applicant/inventor known as Avashnee Shamparkesh Sewlall in the international application has since married and changed her name to Avashnee Shamparkesh Chetty. Applicant has provided a proper petition under 37 CFR 1.182, along with the $400 petition fee, and an affidavit showing that the applicant's name has been changed.

CONCLUSION

The petition under 37 CFR 1.182 to change the applicant Avashnee Shamparkesh Sewlall's name to Avashnee Shamparkesh Chetty as to the National Stage in the United States of America is hereby **GRANTED**.

This application is being forwarded to national stage processing for preparation of the "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) and the according of a 35 U.S.C. 371 (c) (1), (2) and (4) date of 21 July 2006.

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

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31 OCT 2006

HOGAN & HARTSON LLP
IP GROUP, Columbia Square
355 Thirteenth Street, N.W.
Washington, DC 20004

In re Application of
HADVARY *et al*
U.S. Application No.: 10/586,925
PCT No.: PCT/EP2004/014057
Int. Filing Date: 10 December 2004
Priority Date: 22 December 2003
Attorney Docket No.: 25063-0002
For: DERMALLY AFFIXED SENSOR DEVICE

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 24 July 2006 with the national stage papers is hereby **GRANTED** as follows:

The basic national fee and the petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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0 1 OCT 2007

HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SHELTON CT 06484-6212

In re Application of CASSES et al. Application No.: 10/586,943 PCT No.: PCT/EP05/01399 Int. Filing Date: 09 February 2005 Priority Date: 12 February 2004 Attorney Docket No.: 003D.0106.U1(US) For: SEALED ELECTRICAL CONNECTOR PART	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 July 2007 in the above referenced application.

BACKGROUND

On 09 February 2005, applicant filed international application PCT/EP05/01399, claiming a priority date of 12 February 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 September 2005. The deadline for entry into the national stage in the United States was 12 August 2006.

On 24 July 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 April 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 15 May 2007, applicant submitted a declaration under PCT Rule 4.17 in the French language executed by the inventors.

DISCUSSION

The declaration submitted on 24 July 2006 and resubmitted 15 May 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 09 February 2005 and the declarations were executed on 29 March 2005, 18 April and 26 May 2005. 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

24 July 2006 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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07 APR 2008

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In re Application of CASSES et al. Application No.: 10/586,943 PCT No.: PCT/EP05/01399 Int. Filing Date: 09 February 2005 Priority Date: 12 February 2004 Attorney Docket No.: 003D.0106.U1(US) For: SEALED ELECTRICAL CONNECTOR PART	DECISION ON DECLARATION

This decision is on the submission of a declaration, filed in the United States Patent and Trademark Office on 01 November 2007 in the above referenced application.

On 09 February 2005, applicant filed international application PCT/EP05/01399, claiming a priority date of 12 February 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 September 2005. The deadline for entry into the national stage in the United States was 12 August 2006.

On 24 July 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 April 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 15 May 2007, applicant submitted a declaration under PCT Rule 4.17 in the French language executed by the inventors. On 01 October 2007, a decision was mailed.

The declaration submitted on 01 November 2007, in response to the 01 October 2007 decision, identifies the international application to which it is directed and meets the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **01 November 2007.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

In re Application of: MILOT, Eric U.S. Application No.: 10/586,944 PCT No.: PCT/CA2005/000092 International Filing Date: 24 January 2005 Priority Date: 23 January 2004 Atty Docket No.: G047-001 For: APPARATUS FOR LONGITUIDINALLY ALIGNING CONCRETE BLOCKS ON A CONVEYOR	DECISION ON PETITION (37 CFR 1.181)

This decision is issued in response to the "Petition For Issuance Of Filing Receipt" filed 28 July 2008, treated herein as a petition under 37 CFR 1.181 to confirm the timely filing of a response to the Notification Of Missing Requirements. No petition fee is required.

BACKGROUND

On 24 January 2005, applicant filed international application PCT/CA2005/000092. The international application claimed a priority date of 23 January 2004, and it designated the United States. On 04 August 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 24 July 2006 (23 July 2006 was a Sunday).

On 24 July 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 03 April 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 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 17 August 2007, applicant filed a "Status Inquiry" requesting the status of the present application.

On 28 July 2008, applicant filed the "Petition For Issuance Of Filing Receipt" considered herein. The petition asserts that a proper response to the Notification Of Missing Requirements was filed on 01 May 2007. The petition includes a copy of the materials filed on 01 May 2007

and a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 01 May 2007.

DISCUSSION

Based on the statements in the present petition, the accompanying itemized return postcard bearing an 01 May 2007 USPTO receipt stamp, and USPTO records confirming receipt of the $65 small entity surcharge payment on 01 May 2007, it is concluded that the materials accompanying the present petition (including the executed declaration) were originally filed herein on 01 May 2007 as a timely response to the Notification Of Missing Requirements mailed 03 April 2007 (see MPEP section 503).

A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to confirm the 01 May 2007 filing of a timely response to the Notification Of Missing Requirements mailed 03 April 2007 is **GRANTED**.

The materials accompanying the present petition, including the executed declaration, will be treated as having been filed herein on 01 May 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 01 May 2007.

Richard M. Ross
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Office of PCT Legal Administration
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Facsimile: (571) 273-0459

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

MAILED

AUG 10 2009

OFFICE OF PETITIONS

Applicant: Werner Bensch
Appl. No.: 10/586,946
International Filing Date: January 26, 2005
Title: SEMICONDUCTOR STRUCTURE COMPRISING ACTIVE ZONES
Attorney Docket No.: 06080
Pub. No.: US 2007/0158659 A1
Pub. Date: July 12, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 5, 2009, for the above-identified application.

The request is DISMISSED.

Applicant notes that the patent application publication contains a material error on the front page of the publication wherein the name of the inventor Werner Bensch is printed incorrectly and he therefor request that the public database be corrected.

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 the public database (publication) to be corrected, received May 5, 2009 was not timely filed under 37 CFR 1.221(b).

The attorney's request for the public database to be corrected, as it is too late to request corrected publication of the application is not persuasive. In accordance with 37 CFR 1.221, changing the publication is done republication or corrected publication.

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[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).

Moreover, the error on the front page of the publication wherein the spelling of the inventor's name is incorrect may be an Office error, but it is not a material Office error under 37 CFR 1.221. The misprinting of the 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.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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0 6 APR 2007

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of WASAKI et al	:	
U.S. Application No.: 10/586,948	:	
PCT Application No.: PCT/JP2005/000967	:	
Int. Filing Date: 26 January 2005	:	DECISION
Priority Date Claimed: 30 January 2004	:	
Attorney Docket No.: 125762	:	
For: SIGNAL DETECTOR	:	

This is in response to applicant's "Submission of Substitute Declaration" filed 08 November 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 January 2005, applicant filed international application PCT/JP2005/000967, which claimed priority of an earlier Japan application filed 30 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 30 July 2006.

On 25 July 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 08 November 2006, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The declaration states that joint inventor Masaru Wasaki is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

Although the declaration satisfies 37 CFR 1.497(b)(2), it is not in compliance with 37 CFR 1.69(b).

37 CFR 1.69(b) states,

> Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

The declaration does not use an official form provided by the USPTO, i.e. USPTO Form PTO/SB/106. Applicant must submit either: (1) a declaration using USPTO Form PTO/SB/106 or (2) a statement that the translation contained in the submitted declaration is accurate.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136 are available. Failure to file a proper response will result in ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

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14 SEP 2007

OLIFF & BERRIDGE, PLC
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In re Application of WASAKI et al	:	
U.S. Application No.: 10/586,948	:	
PCT Application No.: PCT/JP2005/000967	:	
Int. Filing Date: 26 January 2005	:	DECISION
Priority Date Claimed: 30 January 2004	:	
Attorney Docket No.: 125762	:	
For: SIGNAL DETECTOR	:	

This is in response to applicant's "Statement" filed 30 April 2007, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 26 January 2005, applicant filed international application PCT/JP2005/000967, which claimed priority of an earlier Japan application filed 30 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 30 July 2006.

On 25 July 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 08 November 2006, applicant a request for status under 37 CFR 1.42 along with an executed declaration.

On 06 April 2007, this Office mailed a decision dismissing the 08 November 2006 request for status.

On 30 April 2007, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

The declaration states that joint inventor Masaru Wasaki is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In view of the statement filed with the renewed petition, the declaration is in compliance with 37 CFR 1.497(b)(2) and 37 CFR 1.69(b).

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 January 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 November 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

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02 APR 2007

OLIFF & BERRIDGE, PLC
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In re Application of	:	
WASAKI (deceased)	:	DECISION ON
Application No.: 10/586,949	:	
PCT No.: PCT/JP2005/000968	:	PAPERS
Int. Filing Date: 26 January 2005	:	
Priority Date: 30 January 2004	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 125763	:	
For: SIGNAL DETECTOR	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 08 November 2006, which was accompanied by a declaration of the inventors. The indication in this declaration that joint inventor Masaru Wasaki is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 January 2005, applicants filed international application PCT/JP2005/000968, which designated the United States and claimed a priority date of 30 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2006 (30 July 2006 being a Sunday).

On 25 July 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of inventors.

On 08 November 2006, applicants filed the instant submission which was accompanied by, *inter alia*, a second declaration of inventors. The indication in this second declaration that inventor Masaru Wasaki is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 08 November 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. 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 Number 15-0461.

The declaration of inventors filed 08 November 2006 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file either a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate.

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.

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2 5 JUN 2007

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OLIFF & BERRIDGE, PLC
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ALEXANDRIA VA 22320

In re Application of	:	
WASAKI (deceased)	:	DECISION
Application No.: 10/586,949	:	
PCT No.: PCT/JP2005/000968	:	
Int. Filing Date: 26 January 2005	:	
Priority Date: 30 January 2004	:	
Attorney's Docket No.: 125763	:	
For: SIGNAL DETECTOR	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 30 April 2007.

BACKGROUND

On 26 January 2005, applicants filed international application PCT/JP2005/000968, which designated the United States and claimed a priority date of 30 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2006 (30 July 2006 being a Sunday).

On 25 July 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of inventors.

On 08 November 2006, applicants filed the instant submission which was accompanied by, *inter alia*, a second declaration of inventors. The indication in this second declaration that inventor Masaru Wasaki is deceased was treated as a request for status under 37 CFR 1.42.

On 02 April 2007, a decision was mailed accepting applicants' request for status under under 37 CFR 1.42. However, the decision also indicated that the declaration of inventors filed 08 November 2006 was not in compliance with 37 CFR 1.69(b) because applicants had not used one of the pre-approved foreign language forms nor had applicants furnished the requisite statement attesting to the accuracy of the translation.

On 30 April 2007, applicants filed the instant submission.

DISCUSSION

The statement included with the submission filed 30 April 2007 that the translation of the declaration is accurate satisfies 37 CFR 1.69(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, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **08 November 2006**.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM, MA 02451-1215

Mail Date: 04/21/2010

Applicant	: David Michael Andrews	: DECISION ON REQUEST FOR
Patent Number	: 7655652	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/586,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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0 2 AUG 2007

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901 North Glebe Road
11th Floor
Arlington, VA 22203

In re Application of MARISSEN, et al. Application No.: 10/586,972 PCT No.: PCT/EP05/00936 Int. Filing Date: 27 January 2005 Priority Date: 30 January 2004 Attorney Docket No.: 4662-210 For: FIXING DEVICE FOR CLAMPING THE ENDS OF A SURGICAL CABLE USED FOR FIXING BONE PARTS	:	DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Notice to File Missing Requirements" filed 14 May 2007 notifying the Office that the name of the first inventor is Roelof Marissen as indicated on the declaration (and PCT Request) rather than Reolof Marissen as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

Petitioner states that "the misspelling (typographical error) of inventor Marrissen's first name was the result of an apparent printing error on the part of WIPO and was not based on incorrect information provided when the international application was filed." Petitioner asserts that the name of the first inventor is Roelof Marissen. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, petitioner's 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**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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27 SEP 2006

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	DECISION ON
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	PETITION UNDER
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	37 CFR 1.137(b)
For: WATER DESALINATION INSTALLATION	:	

This decision is in response to applicant's submission filed 21 July 2006.

BACKGROUND

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 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, 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 21 July 2006.

As to item (2), applicant submitted the petition fee on 21 July 2006.

As to item (3), petitioner's statement that the application became abandoned unintentionally 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 executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

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25 OCT 2006

WILLIAM COLLARD
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1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	SUPPLEMENTAL
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	
For: WATER DESALINATION INSTALLATION	:	

This decision is supplemental to the decision mailed 27 September 2006. That decision overlooked the declaration of inventors filed 21 July 2006. Any inconvenience is regretted.

BACKGROUND

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, 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.

On 27 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b) and indicating that the application was 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).

DISCUSSION

The declaration of inventors filed 21 July 2006 is not in compliance with 37 CFR 1.497(a)-(b) because it identifies the incorrect inventorship.

37 CFR 1.41(a)(4) states:

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration lists three inventors while the international application lists only two inventors. (The additional inventor listed on the declaration is Eli Oklejas. This individual is indicated in the international application as an applicant for all designated states except the US.) A Form PCT/IB/306 does not appear in the file for the additional inventor. Nor is there any other indication that a PCT Rule 92bis change has been made in the above-identified international application. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 21 July 2006 is not sufficient.

CONCLUSION

The portion of the decision mailed 27 September 2006 indicating that the the application was 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) is hereby VACATED.

Applicants are required to file a declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

The declaration must name the inventive entity named in the international application, or a proper change of inventorship under 37 CFR 1.497(d) must be filed, or a Form PCT/IB/306 indicating a change effected under PCT Rule 92bis corresponding to the declaration filed 27 July 2006 must be filed.

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
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17 JAN 2007

WILLIAM COLLARD
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1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	
For: WATER DESALINATION INSTALLATION	:	

This decision is in response to the petition under 37 CFR 1.497(d) filed 26 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, 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.

On 27 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b) and indicating that the application was 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).

On 25 October 2006, a supplemental decision was mailed because the 27 September 2006 decision overlooked the declaration of inventors filed 21 July 2006. The supplemental decision

indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because it identified an incorrect inventorship.

On 26 December 2006, applicants filed the instant petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2).

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

16 APR 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

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	
For: WATER DESALINATION INSTALLATION	:	

This decision is in response to the renewed petition under 37 CFR 1.497(d) filed 05 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, 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.

On 27 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b) and indicating that the application was 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).

On 25 October 2006, a supplemental decision was mailed because the 27 September 2006 decision overlooked the declaration of inventors filed 21 July 2006. The supplemental decision indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because it identified an incorrect inventorship.

On 26 December 2006, applicants filed a petition under 37 CFR 1.497(d).

On 17 January 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.497(d) because it was not clear whether the written consent of an assignee was required.

On 05 March 2007, applicants filed the instant renewed petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 17 January 2007, applicants have satisfied items (1) and (2) and as to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Item (3) is not required. The renewed petition indicates that no assignment has been executed. Accordingly, written consent of an assignee is not required.

The declaration of inventors filed 21 July 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Thomas Manth, Eli Oklejas, and Michael Gabor as inventors.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,013	01/25/2007	Xavier Peuziat	B-6074PCT 623619-6	1971

7590 04/22/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
CHAWAN, VIJAY B

ART UNIT	PAPER NUMBER
2626	

NOTIFICATION DATE	DELIVERY MODE
04/22/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

22 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

In re Application of
HARDY et al.
Application No.: 10/587,032
PCT No.: PCT/US03/18666
Int. Filing Date: 13 June 2003
Priority Date: 13 June 2002
Attorney Docket No.:002441.00208/PP019482...
For: VECTORS FOR EXPRESSION OF HML-2 POLYPEPTIDES

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Hiroshi Ishihara	: DECISION ON REQUEST FOR
Patent Number	: 7655442	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,042	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **727** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED
JUN 25 2010
OFFICE OF PETITIONS

In re Application of	:	
Herold et al.	:	
Application No. 10/587046	:	ON APPLICATION FOR
Filing or 371(c) Date: 07/24/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
2006_0978A	:	

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed March 12, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is an initial 791 days, not 560 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. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

CC: NOVARTIS INSTITUTE for BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02139

---

[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.

DATE 9-5-07 APPLICATION NUMBER 10/587,049

DOC CODE Pet.Dec DOC DATE 9-5-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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Alexandria, VA 22313-1450
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0 5 SEP 2007

Douglas R. Hanscom
Jones, Tullar & Cooper
P.O.Box 226 Eads Station
Arlington VA 22202

In re Application of	:	
BERNARD et al.	:	
Application No.: 10/587,049	:	DECISION ON PETITION
PCT No.: PCT/EP2005/050374	:	
Int. Filing Date: 28 January 2005	:	UNDER
Priority Date: 31 January 2004	:	
Attorney Docket No.: W1.2331 PCT-US	:	37 CFR 1.497(d)
For: PRINTING MACHINE HAVING AT	:	
LEAST ONE PRINTING UNIT FOR	:	
IMPRINTING A WEB OF MATERIAL TO BE	:	
IMPRINTED BY OFFSET PRINTING IN A	:	
VARIABLE CUT LENGTH AND A FOLDER	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed in the United States Patent and Trademark Office (USPTO) on 11 May 2007, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 28 January 2005, applicants filed international application PCT/EP2005/050374, which designated the United States and claimed a priority date of 31 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 17 November 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2006.

On 24 July 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 28 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 01 December 2006, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS, which has properly been treated as a petition under 37 CFR

1.497(d). The petition was accompanied by statements from Anton Weis, Wolfgang Joos, and Peter Wilhelm Kurt Leidig, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Items (1)-(3) have been satisfied. Item (4) is not required.

The declaration of inventors filed 11 May 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 Andreas Ewald Heinrich Bernard, Anton Franz Ernt, Helmut Holm, Wolfgang Joos, Peter Wilhelm Kurt Leidig, Georg Schneider, Martin Heinz Schoeps, Anton Weis, and Kurt Johannes Weschenfelder as inventors.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
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Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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15 AUG 2006

Gary D. Colby
Duane Morris
30 South 17th Street
Philadelphia PA 19103-4196

In re Application of HVICHIA Application No.: 10/587,053 PCT No.: PCT/US02/22689 Int. Filing: 17 July 2002 Priority Date: 17 July 2001 Attorney Docket No.: E5073-00002 For: MICRO STRUCTURE FOR PARTICLE AND CELL SEPARATION, IDENTIFICATION, ...	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

The above-identified application has been abandoned for an extended period of time. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting 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 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 United States Patent and Trademark Office).

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

01 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of:	:	
PEARSON, James, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/587,054	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/US2004/043082	:	
Int'l Filing Date: 23 December 2004	:	
Priority Date: 23 December 2003	:	
Atty Docket No.: 2221.008B	:	
For: COMPOUNDS AND METHODS FOR	:	
THE TREATMENT OF ASTHMA	:	

The petition to revive under 37 CFR 1.137(b) filed 24 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a properly executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PANASONIC PATENT CENTER
1130 CONNECTICUT AVENUE NW, SUITE 1100
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Joseph McCrossan	: DECISION ON REQUEST FOR
Patent Number	: 7660516	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **795** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 NOV 2009

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

In re Application of PRADES et al	:	
U.S. Application No.: 10/587,058	:	
Attorney Docket No.: 31223.00130	:	DECISION
For: ACTIVATING SUPPORTS FOR	:	
METALLOCENE CATALYSIS	:	

This is in response to applicant's petition under 37 CFR 1.181 filed 18 September 2009.

BACKGROUND

On 21 July 2006, applicant filed application papers in the USPTO. The submission was assigned the above-identified U.S. Application Number.

On 18 September 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

37 CFR 1.495(g) states, "The documents and fees submitted under paragraphs (b) and (c) of this section must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a)."

In the present case, the papers filed 21 July 2006 were not clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Although the paper titled "Express Mail Certificate of Mailing" lists a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US)", such transmittal letter is not present in the application file. Also, the listing of the international application number and the international filing date and the fact that the papers were sent to Mail Stop PCT does not preclude the filing of a common bypass application under 35 U.S.C. 111(a). See MPEP 1895. Although the executed declaration does state that it is directed to a national stage application, such declaration was not present at the time of filing.

Furthermore, the fee transmittal sheet (Form PTO/SB/17) not only fails to indicate that a submission under 35 U.S.C. 371 is being made but also contains information which is consistent with a filing under 35 U.S.C. 111(a). For instance, Form PTO/SB/17 contains a statement authorizing the USPTO to charge additional fees under 37 CFR 1.16 and 1.17. However, the filing fees for a 35 U.S.C. 111(a) application are set forth in 37 CFR 1.16 whereas the filing fees for a national stage application are set forth in 37 CFR 1.492. Furthermore, Form PTO/SB/17 lists $500.00 for the search fee, which is consistent with an application filed under 35 U.S.C. 111(a) but inconsistent with a national stage application wherein the search report was prepared by the European Patent Office and provided to the USPTO, as in the present case.

Because the papers filed 21 July 2006 did not contain a clear indication that the submission was being made under 35 U.S.C. 371, the application was properly treated as a filing pursuant to 35 U.S.C. 111(a).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

Mail Date: 05/04/2010

Applicant	: Hiroyuki Ito	: DECISION ON REQUEST FOR
Patent Number	: 7632783	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/587,100	: 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 **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/587,147	07/24/2006	Ryosuke Nishida	2006_1143A	4981

513 7590 07/19/2010
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
CORDRAY, DENNIS R

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
07/19/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
eoa@wenderoth.com

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 19 2010

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In re application of Nishida et al. Serial No. 10/587,147 Filed: July 24, 2006 For: MOISTURE ABSORPTIVE AND DESORPTIVE PAPER AND A METHOD FOR MANUFACTURING THE SAME	: : : :	DECISION ON PETITION

This is a decision on the request filed on June 7, 2010. The request is for a new office action and resetting date for response. The Office Action mailed May 21, 2010 fails to account for the claim amendments filed May 14, 2010. Applicants further reference a telephone discussion with the Examiner on May 10, 2010 where by the Examiner indicated that he would wait until the middle of June before acting on the application, giving Applicants the opportunity to file an amendment and a Rule 132 Declaration.

DECISION

A review of the petitioner's evidence indicates that the request has merit.

The Petition is **GRANTED**.

The Examiner is directed to issue a new office action addressing the claim amendments filed May 14, 2010 and to also consider the Rule 132 Declaration filed with the petition.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

Michael R. Davis
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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Samuel J Haidle
Howard Howard Attorneys
Suite 101
39400 Woodward Avenue
Bloomfield Hills MI 48304-5151

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Mattias Johansson	:	
Application No. 10/587,154	:	DECISION ON PETITION
Filed: May 1, 2007	:	
Attorney Docket No. 65366-412	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 final Office action mailed, March 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 25, 2009. A Notice of Abandonment was mailed on October 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

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 December 10, 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 a petition fee of $1,620 will be charged to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Nhat D. Phan
Phan Law Group
P.O. Box 748
Alexandria, VA 22313-0748

2 8 SEP 2007

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:	
Stifter et al.	:	
Application No.: 10/587,176	:	DECISION
PCT No.: PCT/AT05/00009	:	
Int. Filing Date: 20 January 2005	:	ON
Priority Date: 27 January 2004	:	
Attorney Docket No.: 66376-387	:	PETITION
For: Training Device For The	:	
Muscles Of The Pelvic Floor	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 15 June 2007.

BACKGROUND

This international application was filed on 20 January 2005, claimed an earlier priority date of 27 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 04 August 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 27 July 2006. Applicants filed *inter alia* the basic national fee on 24 July 2006.

On 09 April 2007, 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 $200.00 petition fee is being charged to Deposit Account No. 04-2223, as authorized by the petition.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that joint inventor Karl Stifter allegedly has 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 copies of various German language documents, but it does not appear that English translations of all of these documents have provided (e.g., for the e-mail correspondence). The English translations of letters to Mr. Stifter which have been provided refer to, e.g., "previous correspondence" and to "the papers of the above application for signing," but do not in themselves establish that a complete copy of the application papers was provided to Mr. Stifter for his review in contemplation of executing this application. A statement signed by Michael Babeluk has been provided, and alludes to correspondence having been sent to Mr. Stifter, appearing to include a copy of the application and a declaration document. However, in the absence of English translations of all of the German language documents (including the e-mail purportedly evidencing a refusal), it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

Regarding **requirement (3)**, the petition provides Karl Stifter's last known address. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the declaration of inventorship accompanying the instant petition is acceptable for purposes of entry into the national stage in the United States.

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
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Tel: (571) 272-3283
Fax: (571) 273-0459

09/28/2007 SBASHEIR 00000003 042223 10587176
Sale Ref: 00000003 DA#: 042223 10587176
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07 JAN 2008

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WASHINGTON DC 20005

In re Application of	:	
Stifter et al.	:	
Application No.: 10/587,176	:	DECISION
PCT No.: PCT/AT05/00009	:	
Int. Filing Date: 20 January 2005	:	ON
Priority Date: 27 January 2004	:	
Attorney Docket No.: 66376-387	:	PETITION
For: Training Device For The	:	
Muscles Of The Pelvic Floor	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 20 December 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.47(a) filed on 15 June 2007 was dismissed, without prejudice, because

> Regarding **requirement (2)**,... Petitioner has provided copies of various German language documents, but it does not appear that English translations of all of these documents have provided (e.g., for the e-mail correspondence). The English translations of letters to Mr. Stifter which have been provided refer to, e.g., "previous correspondence" and to "the papers of the above application for signing," but do not in themselves establish that a complete copy of the application papers was provided to Mr. Stifter for his review in contemplation of executing this application. A statement signed by Michael Babeluk has been provided, and alludes to correspondence having been sent to Mr. Stifter, appearing to include a copy of the application and a declaration document. However, in the absence of English translations of all of the German language documents (including the e-mail purportedly evidencing a refusal), it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

In response, petitioner has provided an English translation of said email correspondence. Petitioner has also provided a "Supplemental Statement..." signed by Michael Babeluk indicating that, on 04 October 2007, he "mailed a complete copy of the application (PCT/AT2005/000009, WO 2005/070504), including specification and claims, to Dr. Stifter at his last known address and asked him to sign the also included declaration and assignment (copy of transmittal letter and English translation attached). No reply from Dr. Stifter has been received." German and English language copies of the 04 October 2007 letter are included. However, inspection of the 04 October 2007 letter (as well as the letters dated 03 May 2007, 11 January 2007 and 05 December 2006 included with the previous petition) reveals that the letters were sent to Dr. Stifter at Auhofstraße 136, as opposed to the last known address provided in the 15 June 2007 petition, Volkerstraße 8/12. Petitioner is required to clarify which address is Dr. Stifter's last known address, and whether the correspondence in question in fact was sent to his last known address.

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

3 1 MAR 2008

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WASHINGTON DC 20005

In re Application of	:	
Stifter et al.	:	
Application No.: 10/587,176	:	DECISION
PCT No.: PCT/AT05/00009	:	
Int. Filing Date: 20 January 2005	:	ON
Priority Date: 27 January 2004	:	
Attorney Docket No.: 66376-387	:	PETITION
For: Training Device For The	:	
Muscles Of The Pelvic Floor	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 12 February 2008.

DISCUSSION

In a Decision mailed on 07 January 2008, the petition under 37 CFR 1.47(a) filed on 20 December 2007 was dismissed, without prejudice, because Dr. Stifter's last known address was unclear, and because it was consequently unclear whether certain correspondence had in fact been sent to his last known address.

In response, petitioner has provided a statement signed by Michael Babeluk clarifying Dr. Stifter's last known address. In view of this clarification, the objections raised in the Decision mailed on 07 January 2008 have been resolved. Therefore, all of the requirements for relief under 37 CFR 1.47(a) now have been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The $65.00 surcharge under 37 CFR 1.492(h) is being charged to Deposit Account no. 04-2223, as authorized by the Transmittal Letter filed on 24 July 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

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 Office of Patent Application Processing 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 **15 June 2007**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

3 1 MAR 2008

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Dr. Karl Stifter
Auhofstrasse 136
1130 WIEN
AUSTRIA

In re Application of
Stifter et al.
Application No.: 10/587,176
PCT No.: PCT/AT05/00009
Int. Filing Date: 20 January 2005
Priority Date: 27 January 2004
Attorney Docket No.: 66376-387
For: Training Device For The Muscles Of The Pelvic Floor

Dear Dr. Stifter:

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
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of

RIVIERE, Pierre J-M. et al.
Application No. 10/587,184
Filed: August 31, 2006
Attorney Docket No. **052209-0150**

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 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Courtenay Brinckerhoff on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

There is an outstanding Office action mailed August 20, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PIERRE J-M RIVIERE**
3993 VIA CONGREJO
SAN DIEGO CA 92130

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18 AUG 2006

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

In re Application of YONG-IL KANG et al.	:	
Application No.: 10/587,213	:	
PCT No.: PCT/KR04/02532	:	DECISION ON
Int. Filing: 02 October 2004	:	
Priority Date: 02 October 2003	:	PETITION TO REVIVE
Attorney Docket No.: 12037-0609708	:	
For: METHOD FOR DISTRIBUTING STREAM	:	UNDER 37 CFR 1.137(b)
DATA BASED ON MULTI-PATH SCHEME	:	
USING TCP IN REAL TIME	:	

The petition to revive under 37 CFR 1.137(b) filed 25 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **25 July 2006.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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10 DEC 2007

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of Magg et al. Application No. 10/587,226 PCT No.: PCT/EP04/06928 Int. Filing Date: 25 June 2004 Priority Date: 30 January 2004 Atty. Docket No.: 2004P00819WOUS For: Brewing Chamber For A Coffee Machine, And A Coffee Machine	:	DECISION

This is in response to the correspondence filed on 30 July 2007.

BACKGROUND

This international application was filed on 25 June 2004, claimed an earliest priority date of 30 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 11 August 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 30 July 2006. Applicants filed, *inter alia*, the basic national fee on 24 July 2006.

On 05 April 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), as well as the surcharge under 37 CFR 1.492(h).

DISCUSSION

Inspection of the declaration filed on 24 July 2006 reveals that it nominates "Johann Magg" in place of "MAGG, Johannes" who was named in the published international application. Counsel attributes this discrepancy to a typographical error made during the international phase, and indicates that the spelling appearing on the Declaration document is the correct spelling of the inventor's name. Counsel urges vacatur of the Notification of Missing Requirements.

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.*

This discrepancy is clearly more than a mere typographical or transliteration error in that applicant appears to be changing from one name to another, though similar, name. As such, a

petition (and fee) under 37 CFR 1.182 is required. *See also* MPEP MPEP § 201.03(b). In the absence of such a petition, it would not be appropriate to accept the declaration at this time.

CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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17 MAR 2008

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Magg et al.	:	
Application No. 10/587,226	:	
PCT No.: PCT/EP04/06928	:	
Int. Filing Date: 25 June 2004	:	
Priority Date: 30 January 2004	:	DECISION
Atty. Docket No.: 2004P00819WOUS	:	
For: Brewing Chamber For A Coffee	:	
Machine, And A Coffee Machine	:	

This is in response to the petition under 37 CFR 1.182 filed on 01 February 2008.

DISCUSSION

In a Decision mailed on 10 December 2007, the declaration filed on 24 July 2006 was not accepted because

> ...it nominates "Johann Magg" in place of "MAGG, Johannes" who was named in the published international application. Counsel attributes this discrepancy to a typographical error made during the international phase, and indicates that the spelling appearing on the Declaration document is the correct spelling of the inventor's name...

In response, applicants have filed the instant petition which states that "Mr. Magg's valid first name in Germany is Johann," and attributes the alternative spelling appearing in the published international application to error. Based on the totality of the circumstances present in this case, including petitioner's statements, it would be appropriate to accept the declaration filed on 24 July 2006 as compliant with 37 CFR 1.497(a) and (b).

DECISION

The petition is **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **24 July 2006**.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Shaun David Green	: DECISION ON REQUEST FOR
Patent Number	: 7597207	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **441** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of	:	
BULUSU et al.	:	
Application No.: 10/587,243	:	DECISION ON PETITION
PCT No.: PCT/IN04/00020	:	
Int. Filing Date: 28 January 2004	:	UNDER 37 CFR 1.182
Priority Date: None	:	
Attorney Docket No.: DAD-0021	:	
For: CONVERTING A HETEROGENEOUS	:	
DOCUMENT	:	

This is a decision on applicant's "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office", treated as a petition under 37 CFR 1.182 to correct the inventors' names to Gopi Kumar BULUSU and Murali DESIKAN. This response was filed in the United States Patent and Trademark Office on 20 August 2008. This decision is also responsive to applicant's status request filed on 20 October 2008.

On 26 July 2006, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee.

On 11 July 2008, a Notification of Missing Requirements was mailed to applicants indicating that the declaration was not in compliance with 37 CFR 1.497(a) & (b) because the first and last name of the inventors were different from those identified in the published international application.

On 20 August 2008, applicant filed a response to the Notification of Missing Requirements. The response is being treated as a petition to change the inventors names under 1.182. The published international application identified the inventors as Kumar Bulusu Gopi and Desikan Murali. However, the declaration identified the inventors as Gopi Kumar BULUSU and Murali DESIKAN and was executed as such.

Applicant now petitions under 37 CFR 1.182 requesting that inventors' name be corrected to Gopi Kumar BULUSU and Murali DESIKAN. The $400 petition fee has been paid per applicant's authorization to charge any deficiency in fees. The petition under 37 CFR 1.182 is

GRANTED: Thus, the declaration submitted on 20 August 2008 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **20 August 2008**.

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0 8 JAN 2008

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Umehara et al.	:	
Application No.: 10/587,246 (11/742,676)	:	
PCT No.: PCT/JP2005/000825	:	
Int'l Filing Date: 24 January 2005	:	
Priority Date: 27 January 2004	:	DECISION
Attorney Docket No.: 4600-0124PUS1	:	
For: Plasma Exchange Waste Liquid Purification	:	
And Circulation Dialysis Apparatus	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 30 November 2007 and directed to application no. 11/742,676, which requests that documents submitted in 11/742,676 be placed into the instant application, no. 10/587,246.

DISCUSSION

In a Decision mailed on 01 October 2007 (and addressed to 11/742,676), the correspondence filed on 06 July 2007 was treated as a petition under 37 CFR 1.182 and dismissed, without prejudice, because

> *Petitioner has not unambiguously described the relief sought. Specifically, petitioner variously suggests that the declaration was intended to be filed in application 10/582,246 or 10/587,246, but does not request that the declaration (or any of the correspondence filed on 01 May 2007) be placed into one of those applications. Instead, petitioner merely urges that the declaration and response "should have been" filed in 10/587,246 (or perhaps 10/582,246) but requests only that they "be removed from the above-identified application." Thus, it is uncertain if petitioner is affirmatively seeking incorporation into another application (whether 10/582,246 or 10/587,246) of the correspondence placed into the instant application, or merely removal of papers from the instant case. Clarification is required.*
>
> *Petitioner has not clearly defined the manner in which the discrepancy described in the petition arose. Though petitioner states that he "has first hand knowledge of the facts associated with the present situation," it is not clear that he was the individual who committed the "clerical error." If not, a statement from the appropriate person would be appropriate. Also, it is not clear exactly what "clerical error" occurred. For instance, was the error made at the point of the selection of options while electronically filing the correspondence, or did applicants mistakenly decide to file the papers into a new application ("duplicate application 11/742,676 was intended to be...)? Petitioner should more clearly define the nature and timing of the "clerical error," identify who committed the error, and provide a statement by that individual.*

In response, petitioner more clearly explains that, on 01 May 2007, applicants attempted to e-file documents into the instant application in response to a Notification of Missing Requirements mailed on 09 April 2007. However, due to what is described as an inadvertent error on the part of a secretary who is no longer in counsel's employ, the documents in question were instead filed as a "new application" which was assigned application no. 11/742,676. Accordingly, "petitioner requests that all correspondence filed on May 1, 2007, which the USPTO associated with new Application No. 11/742,676, be removed from said file and incorporated into Application No. 10/587,246, as originally intended. Petitioner has expressly abandoned Application No. 11/742,676." Based on the totality of the circumstances presented, it would be appropriate to grant the requested relief. Accordingly, copies of the correspondence in question (including a declaration document, a Response to Notification of Defective Response, a copy of the Notification of Defective Response mailed on 09 April 2007, as well as the associated Electronic Acknowledgement Receipt) from 11/742,676 are being placed into the instant application, no. 10/587,246. All further correspondence with respect to this matter should be directed to 10/587,246.

It is noted that the declaration filed on 01 May 2007 nominates an inventor (Mutsuo SASAKI) in place of "Sasaki mutsuo" nominated in the published international application. In that this is clearly more than a mere typographic error or phonetic misspelling of applicants' name (because of the change in the order of the names), a proper petition (under 37 CFR 1.182) is required to resolve this discrepancy. *See* MPEP 605.04(b).

CONCLUSION

The petition is **GRANTED** to the extent noted above.

Petitioner is required to file a proper response (i.e., either a new oath or declaration compliant with 37 CFR 1.497(a) and (b) or else a grantable petition to accept the declaration as filed on 01 May 2007 despite the discrepancy noted above) within **ONE (1) MONTH** of the mailing date of this Decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely reply will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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2 9 APR 2008

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FALLS CHURCH VA 22040-0747

In re Application of	:	
Umehara et al.	:	
Application No.: 10/587,246	:	
PCT No.: PCT/JP2005/000825	:	
Int'l Filing Date: 24 January 2005	:	
Priority Date: 27 January 2004	:	DECISION
Attorney Docket No.: 4600-0124PUS1	:	
For: Plasma Exchange Waste Liquid Purification And Circulation Dialysis Apparatus	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 07 February 2008.

DISCUSSION

In a Decision mailed on 08 January 2008, the declaration filed on 01 May 2007 was not accepted, without prejudice, because it "nominates an inventor (Mutsuo SASAKI) in place of "Sasaki mutsuo" nominated in the published international application."

Petitioner argues that the published international application identifies the inventor in question "by his Family Name (Sasaki)/Given Name (mutsuo). This information is in accordance with information supplied on the declaration filed on May 1, 2007..." Petitioner further states that the "reason why the Family Name of inventor Sasaki was not capitalized (e.g., 'SASAKI') and a comma was not inserted between the inventor's Family Name and Given Name is not clear to Petitioners. However, Petitioners submit that these errors are typographical errors in the International Application as published." In view of the totality of the evidence of record, it would be appropriate to accept applicants' characterization of the discrepancy as a typographical error, and to accept the declaration as filed on 01 May 2007 for purposes of compliance with 37 CFR 1.497(a) and (b).

The $400.00 petition fee paid on 07 February 2008 was not required, and it is being refunded to Deposit Account 02-2448 as authorized by the instant petition.

CONCLUSION

The petition is **GRANTED**.

The declaration filed on 01 May 2007 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the Office of Patent Application Processing for further processing consistent with this decision. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **01 May 2007**.

/George Dombroske/
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
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ALEXANDRIA VA 22314

In re Application of Nakashima et al. Application No.: 10/587,256 PCT No.: PCT/JP2006/302946 Int. Filing Date: 20 February 2006 Priority Date: 10 March 2005 Attorney Docket No.: 294085US8PCT For: Battery Residual Quantity Display Method And Electronic Equipment	:	DECISION

This is in response to the "Request To Correct Filing Date" filed on 17 August 2009.

BACKGROUND

This international application was filed on 20 February 2006, claimed an earlier priority date of 10 March 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 14 September 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 September 2007. Applicants filed, *inter alia*, the basic national fee on 26 July 2006.

On 10 January 2007, applicants filed *inter alia* a declaration.

On 20 June 2008, a Filing Receipt and a Notice of Acceptance (Form PCT/DO/EO/903) were mailed to applicants, showing a completion date and 35 U.S.C. 371(c)(1), (2) and (4) date of "07/26/2006."

DISCUSSION

Counsel requests correction of the records of the USPTO because the "correct filing date of the application should be: January 10, 2007." Review of the record reveals that a dual-language declaration was filed on 10 January 2007. Inspection of said declaration reveals that it does not appear to have been made on a form provided by the USPTO, and that the statement required under 37 CFR 1.69(b) has not been provided. As such, it would not be appropriate to accept the declaration at this time. In addition, the surcharge under 37 CFR 1.492(h) has not been paid.

The filing receipt and the Notice of Acceptance mailed on 20 June 2008 were both issued in error, and both are hereby **VACATED**.

DECISION

Applicants' request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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25 MAY 2010

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ALEXANDRIA VA 22314

In re Application of	:	
Nakashima et al.	:	
Application No.: 10/587,256	:	
PCT No.: PCT/JP2006/302946	:	
Int. Filing Date: 20 February 2006	:	DECISION
Priority Date: 10 March 2005	:	
Attorney Docket No.: 294085US8PCT	:	
For: Battery Residual Quantity Display	:	
Method And Electronic Equipment	:	

This is in response to the "Request For Reconsideration" filed on 23 November 2009.

DISCUSSION

In a Decision mailed on 20 October 2009, it was noted that

> Review of the record reveals that a dual-language declaration was filed on 10 January 2007. Inspection of said declaration reveals that it does not appear to have been made on a form provided by the USPTO, and that the statement required under 37 CFR 1.69(b) has not been provided. As such, it would not be appropriate to accept the declaration at this time. In addition, the surcharge under 37 CFR 1.492(h) has not been paid.

In response, it is noted that this application was issued as patent no. 7,619,536 on 17 November 2009. As such, it would not be appropriate to further consider the merits of the "Request For Reconsideration" filed on 23 November 2009 at this time.

DECISION

Applicants' request is **REFUSED as untimely**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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15 AUG 2006

Zhun Lu
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In re Application of	:	
LI, et al.	:	
Application No.: 10/587,277	:	
PCT No.: PCT/CN04/01064	:	DECISION ON PETITION
Int. Filing Date: 20 September 2004	:	
Priority Date: 26 September 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 13796-00002-US	:	
For: COMPOUND ARTEMISININ	:	

The petition to revive under 37 CFR 1.137(b) filed 25 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 U.S. Basic National fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. In addition, a review of the filed papers finds that applicant has currently provided all of the requirements for entry into the U.S. national stage.

The application has an international filing date of 20 September 2004 under 35 U.S.C. 363 and will be given a date of **25 July 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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

15 OCT 2007

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BERGHOFF LLP
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CHICAGO, IL 60606

In re Application of	:	
RÖLLIN, Richard	:	
Application No.: 10/587,290	:	DECISION ON
PCT No.: PCT/CH2005/000024	:	
Int. Filing Date: 18 January 2005	:	PETITION UNDER
Priority Date: 27 January 2004	:	
Attorney Docket No.: 07-2533	:	37 CFR 1.47(b)
For: BREAST CAP PART AND BREAST CAP	:	
FOR USING THE BREAST CAP PART	:	

This is a decision on applicant's Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 12 April 2007. The application has only one inventor and that inventor has not signed. For this reason, this petition is being treated a petition under 37 CFR 1.47(b).

BACKGROUND

On 18 January 2005, applicant filed international application PCT/CH2005/00002, claiming a priority date of 27 January 2004. A copy of the international application was transmitted to the Office on 04 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 July 2006.

On 25 July 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 28 March 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 12 April 2007, applicant submitted a petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1) and (3) have been satisfied. Although applicants indicate that the petition fee accompanied the petition, it is not reflected in the fee records for this application. The $200 petition fee will be charged to deposit account no. 50-0930. as authorized. Applicant states the last known mailing address of Mr. Richard Röllin as Sonnenberg 16, 6313 Menzingen, Switzerland.

Items (2) has not been satisfied. Applicant must show that the inventor has refused to sign the declaration. Ordinarily, the inventor must be presented with a complete copy of the application papers and then fail to sign the declaration. Applicant's petition is not accompanied by a detailed account of the presentation by someone with first hand knowledge of the presentation. Mr. Tanner's statement is general, does not indicate that he has firsthand knowledge of presentation of the application papers to Mr. Röllin and does not indicate which papers were forwarded. Copies of documentary evidence such as return mail receipts and copies of the documents forwarded to Mr. Röllin are appropriate.

Item (4) has not been satisfied. Applicant has not provided a declaration in compliance with 37 CFR 1.497(a)-(b) executed by the 37 CFR 1.47(b) applicant.

Item (5) has not been satisfied. Applicant has not provided a showing of sufficient proprietary interest in the application.

Item (6) has not been satisfied. Although applicant need only make the assertion that applicant is the assignee and failure to accept this petition would lead to the abandonment of the application, thus prejudicing applicant's rights, applicant has not done so.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

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0 3 JUN 2008

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In re Application of	:	
RÖLLIN, Richard	:	
Application No.: 10/587,290	:	DECISION ON
PCT No.: PCT/CH2005/000024	:	
Int. Filing Date: 18 January 2005	:	PETITION UNDER
Priority Date: 27 January 2004	:	
Attorney Docket No.: 07-2533	:	37 CFR 1.47(b)
For: BREAST CAP PART AND BREAST CAP FOR USING THE BREAST CAP PART	:	

This is a decision on applicant's Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 04 January 2008.

BACKGROUND

On 15 October 2007, the Office mailed Decision on Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 04 January 2008, applicant submitted a renewed petition under 37 CFR 1.47(b), accompanied by the declaration of the inventor and the fee for a one month extension of time.

DISCUSSION

Applicant has supplied a declaration executed by the inventors; the petition under 37 CFR 1.47(b) is moot.

The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) 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. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **04 January 2008**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
10/587,292	07/25/2006	Hans-Peter Buchstaller	030863-00012	6942

7590 08/31/2009
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER
DAVIS, ZINNA NORTHINGTON

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
08/31/2009	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.

Nomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

10587309

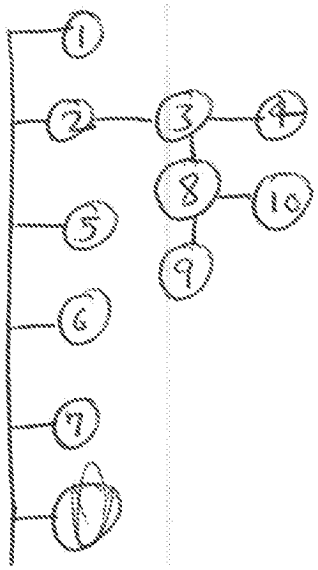

Fig.

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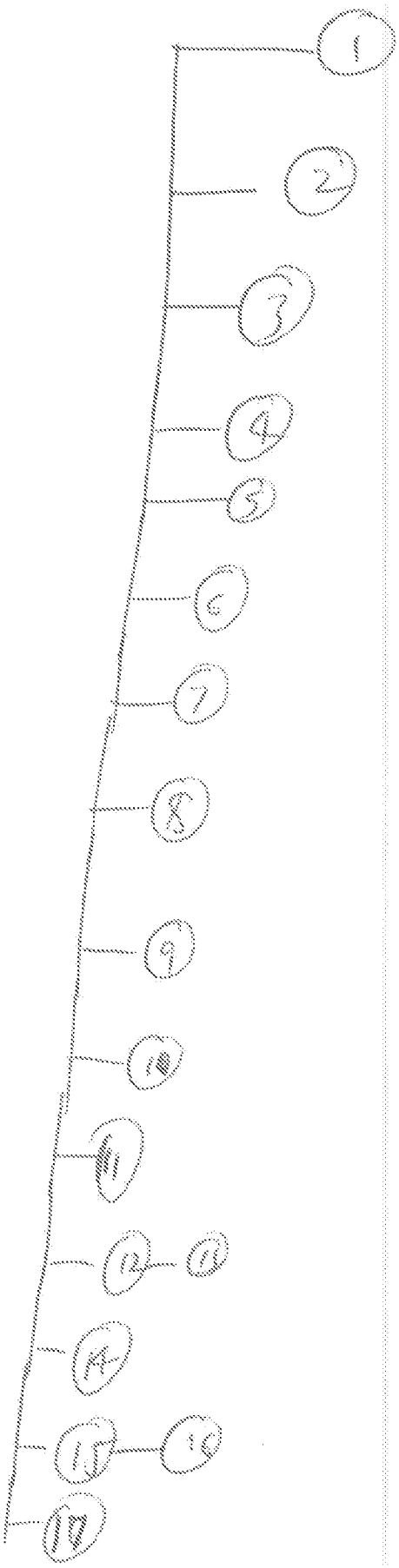

1058730 1
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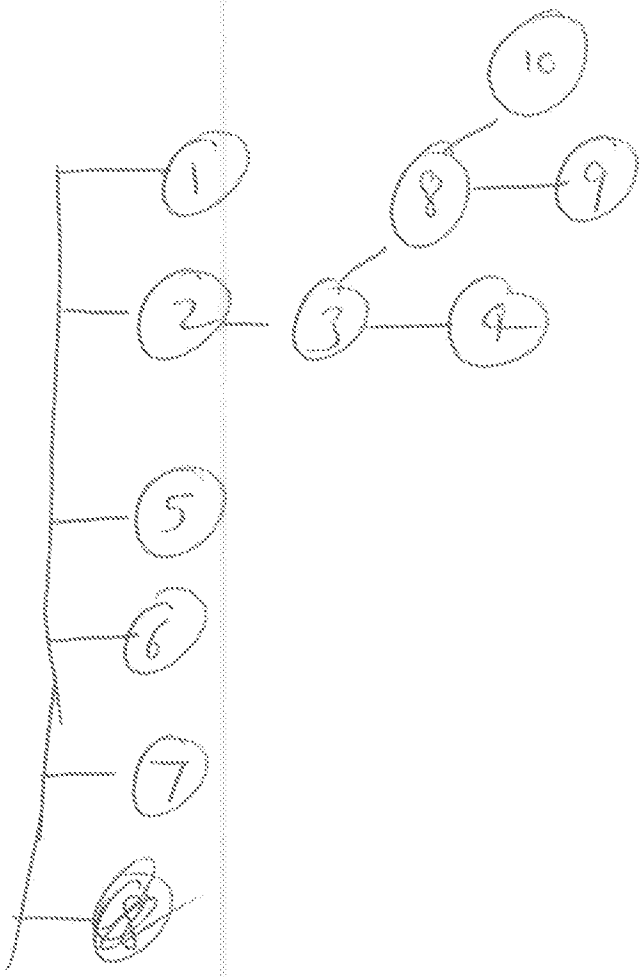

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FEB 26 2008

BURR & BROWN

PO BOX 7068

SYRACUSE, NY13261-7068

In re Application of	:	
Noriaki Kato et al.	:	DECISION ON REQUEST TO
Application No. 10/587,320	:	PARTICIPATE IN PATENT
Filed: January 28, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No.868_012	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 18, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

2 5 JUN 2007

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

In re Application of	:	
Sharp	:	
Application No. 10/587,346	:	
PCT No.: PCT/DE05/00750	:	
Int. Filing Date: 23 April 2005	:	DECISION
Priority Date: 13 May 2004	:	
Atty. Docket No.: 4936/PCT	:	
For: Aircraft Engine	:	

This is in response to the "Request For Corrected Notice Of Acceptance Of Application" filed on 26 April 2007.

BACKGROUND

This international application was filed on 23 April 2005, claimed an earliest priority date of 13 May 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 24 November 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 November 2006. Applicants filed, *inter alia*, the basic national fee on 25 July 2006.

On 09 April 2007, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the 35 U.S.C. 371(c)(1), (2) and (4) date of this application to be "7/25/2006" and the "Date of Completion of All 35 U.S.C. 371 Requirements" to be "11/13/2006."

DISCUSSION

Counsel requests a corrected Form PCT/DO/EO/903 because

> The "Date of Completion of all 35 USC 371 Requirements" should read 7/25/2006, because all items required under 35 USC 371 were filed together on July 25, 2006, including the English translation of the International Application, and including an express request to begin the national examination (see item 3 on the Transmittal Form filed on July 25, 2006).

Counsel also requests that the English translation of the international application and "Copy of references cited in ISR" be listed on the Form PCT/DO/EO/903.

Review of the record reveals that all of the requirements of 35 U.S.C. 371(c) were satisfied on 25 July 2006, and that an express request under 35 U.S.C. 371(f) was also filed on that date. The papers filed on 25 July 2006 included an English translation of the international application, which was not noted on the Form PCT/DO/EO/903 mailed on 09 April 2007.

Therefore, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 09 April 2007 was defective, and it is hereby **VACATED**.

CONCLUSION

The request is **GRANTED**.

This application is being returned for the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) showing a 35 U.S.C. 371(c)(1), (2) and (4) date of **25 July 2006** and a "Date of Completion of All 35 U.S.C. 371 Requirements" of **25 July 2006**. The Notice of Acceptance will also indicate that the English translation of the international application and the references cited in the ISR have been received.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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Studebaker & Brackett PC
1890 Preston White Drive
Suite 105
Reston VA 20191

In re Application of:
KAJOLA, Matti, et al.
U.S. Application No.: 10/587,354
PCT No.: PCT/FI2005/000090
International Filing Date: 11 February 2005
Priority Date: 13 February 2004
Attorney Docket No.: 032700-10
For: A METHOD FOR INTERFERENCE SUPPRESSION IN A MEASURING DEVICE

DECISION ON PETITION

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Under Rule 1.181(a)" filed 04 February 2009. No petition fee is required.

BACKGROUND

On 11 February 2005, applicants filed international application PCT/FI2005/000090. The international application claimed a priority date of 13 February 2004, and it designated the United States. On 25 August 2005, the International Bureau (IB) communicated a copy of the international application to the United States patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 13 August 2006.

On 26 July 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.

On 16 May 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 was required.

On 02 July 2007, applicants filed a response to the Notification Of Missing Requirements consisting of a three-page Form PTO-1390 transmittal letter, a copy of the Notification Of Missing Requirements, and an executed declaration. The submission was accompanied by an assignment for recordation.

On 02 February 2009, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 04 February 2009, applicants filed the "Petition To Withdraw Holding Of Abandonment Under Rule 1.181(a)" considered herein. The petition asserts that applicants filed a timely and proper response to the Notification Of Missing Requirements, including an executed declaration, on 02 July 2007, and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

The present petition includes a copy of the materials filed by applicant 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 02 July 2007. Moreover, the application file contains the original three-page transmittal letter and the copy of the Notification Of Missing Requirements filed by applicants on 02 July 2007. The declaration included with such materials is missing from the application file, but upon review, it appears that the one-page declaration document was forwarded for recordation with the assignment, rather than placed in the application file.

Based on the statements in the present petition, the attached return postcard, and USPTO records regarding applicants' original filing, it is concluded that the response to the Notification Of Missing Requirements accompanying the present petition, including the executed declaration, was originally filed herein on 02 July 2007 as a timely response to the Notification Of Missing Requirements mailed 16 May 2007.

The Notification of Abandonment mailed 02 February 2009, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 02 February 2009 is hereby **VACATED**.

The declaration accompanying the present petition is treated as having been originally filed herein on 02 July 2007 as a timely response to the Notification Of Missing Requirements mailed 16 May 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 July 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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JUN 25 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
SAKAI, MASAHARU	:	DECISION ON REQUEST TO
Application No. 10/587,406	:	PARTICIPATE IN PATENT
Filed: January 3, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. SCEP 22.661	:	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 May 20, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

2 5 OCT 2007

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FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO IL 60607

In re Application of	:	
KOSCHINSKY et al	:	
Application No.: 10/587,429	:	
PCT No.: PCT/US2005/006437	:	
Int. Filing Date: 28 February 2005	:	DECISION
Priority Date: 27 February 2004	:	
Attorney Docket No.: IOM-P054	:	
For: IONTOPHORETIC ELECTRODE	:	

The decision is in response to applicants' petition under 37 CFR 1.182 filed in the USPTO on 02 August 2007.

BACKGROUND

On 28 February 2005, applicants filed international application PCT/US2005/006437 which designated the United States and claimed a priority date of 27 February 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 September 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 August 2006 (27 August 2006 being a Sunday).

On 26 July 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 23 March 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/903) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 April 2007, applicants filed a submission including a declaration of inventors.

On 29 June 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/917) indicating, *inter alia*, that the declaration of inventors filed 23 April 2007 was not in compliance with 37 CFR 1.497(a)-(b) because the second inventor's first name on the declaration did not correspond with the name on the published application.

On 02 August 2007, applicants filed the instant petition under 37 CFR 1.182, which was accompanied by an affidavit of James D. Isaacson.

DISCUSSION

The petition fee has been paid. The statement of James D. Isaacson is accepted. The declaration of inventors filed 23 April 2007 is in compliance with 37 CFR 1.497(a)-(b).

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

22 AUG 2006

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Philips Electronics North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, California 95131

In re Application of
AMATO, Joseph M.
Application No.: 10/587,442
PCT No.: PCT/IB04/51568
Int. Filing Date: 26 August 2004
Priority Date: 26 August 2003
Attorney Docket No.: US030291US2
For: PROPORTIONAL VARIABLE RESISTOR STRUCTURES TO ELECTRICALLY MEASURE MASK MISALIGNMENT

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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2 9 APR 2009

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Charles A. Muserlian
HEDMAN AND COSTIGAN
1185 Avenue of the Americas
New York, NY 10036

In re Application of
GUERNALEC *et al*
U.S. Application No.: 10/587,465
PCT No.: PCT/FR2005/000224
Int. Filing Date: 02 February 2005
Priority Date: 04 February 2004
Attorney Docket No.: 475.020
For: DEVICE FOR NITRIDING BY IONIC IMPLANTATION OF AN ALUMINIUM ALLOY PART AND CORRESPONDING METHOD

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to the papers filed 09 July 2008 and 27 April 2009 which are treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181(a). No fee is required.

BACKGROUND

On 22 September 2006, applicants purportedly submitted an executed declaration. However, these papers were not located in the file.

On 03 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available.

On 09 April 2007, applicants responded to the Form PCT/DO/EO/905 claiming that an executed declaration was previously submitted on 22 September 2006. Applicants provided a copy of the date-stamped postcard; however, a copy of the executed declaration was not provided.

On 05 June 2007, applicants submitted an Information Disclosure Statement.

On 27 August 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that a response was received on 05 June 2007 but that the requirements of the Form PCT/DO/EO/905 have not been completed.

On 31 August 2007, applicants responded claiming that the documents filed on

05 June 2007 was not a response to the Form PCT/DO/EO/905, but merely an Information Disclosure Statement. Applicants again stated that a declaration was submitted on 22 September 2006 and provided a copy of the date-stamped postcard; however, a copy of the executed declaration was again not provided.

On 27 March 2008, a request for status was mailed.

On 27 June 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 03 April 2007 within the time period set.

On 09 July 2008, applicant filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents filed 09 April 2007 along with a date-stamped postcard receipt for those documents.

On 27 April 2009, at the request of the undersigned, applicants filed a copy of the declaration purportedly filed 22 September 2005 along with a date-stamped postcard for those documents.

DISCUSSION

Applicants response filed 09 April 2007 was not sufficient. Applicants failed to provide a copy of the declaration purportedly filed 22 September 2005.

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 provided a copy of the date-stamped postcard receipt for documents submitted 22 September 2006. The postcard receipt records that among the papers received in the USPTO included an "Executed declaration." The postcard receipt is stamped "OIPE SEP 22 2005" across its face. The U.S. application number and docket number are listed on the postcard receipt. Applicants also provided a copy of the declaration filed 22 September 2006.

Applicants have provided *prima facie* evidence that the declaration was originally received by the USPTO on 22 September 2006.

DECISION

For the reasons noted above, applicants' petition to withdraw the holding of

abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 27 June 2008 is hereby **VACATED**.

The declaration originally filed 22 September 2006 is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 February 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 22 September 2006.

This application is being forwarded to the Office of Patent Application Processing for further processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Nishtani et al.	:	
Application No. 10/587,509	:	ON APPLICATION FOR
Filed: July 27, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 05273.0101	:	
Title: PROCESS FOR PREPARING	:	
REBAMIPIDE	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT -PRE-GRANT" filed November 4, 2009. This petition is properly treated under 37 CFR §1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred eighty (680) days, not three hundred seventy-one (371) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **Dismissed.**

On August 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 371 days. Applicants dispute the calculation.

The Office has considered applicants' argument and finds it unpersuasive that an adjustment is required. Applicants contend a 680 day adjustment is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to 37 CFR §1.702(a)(1). A Notice of Allowance was mailed on August 7, 2009, which is 14 months and 371 days after the application fulfilled the requirements of 35 U.S.C. 371 on June 1, 2007. Petitioner contends fulfillment of the application was met on July 27, 2006.

However, a review of the record shows that the requirements of 35 U.S.C. 371 were fulfilled on June 1, 2007. As early commencement was not requested, the last of 371 requirements to be completed was commencement at 30 months on June 1, 2007. Thus, the mailing of the Notice of Allowance on August 7, 2009, is 14 months and 371 days after fulfillment.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 371 days.

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). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant, at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Joseph W. Lindley	: DECISION ON REQUEST FOR
Patent Number	: 7651296	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,530	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

Applicant	: Masahiro Goto	: DECISION ON REQUEST FOR
Patent Number	: 7599117	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **525** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JAN 11 2010

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K Street NW
Washington, DC 20007

In re Application of	:	
Petrus Karsten, et al.	:	
Application No. 10/587,565	:	DECISION ON PETITION
Filed: July 31, 2006	:	TO WITHDRAW
Attorney Docket No. 016915-0287	:	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 3, 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 Rouget F. Henschel on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Petrus Karsten**
Havikshoek 27
DL Enkhuizen, NL-1602
NETHERLANDS

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/587,565	07/31/2006	Petrus Karsten	016915-0287

CONFIRMATION NO. 2337

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000039573580

Date Mailed: 01/11/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

07 SEP 2006

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

In re Application of	:	
CAMPBELL, Todd D., et al.	:	
Application No.: 10/587,580	:	DECISION
PCT No.: PCT/US04/42474	:	
Int. Filing Date: 15 December 2004	:	ON PETITION UNDER
Priority Date: 15 December 2003	:	
Docket No.: ETI 301	:	37 CFR 1.137(b)
For: SYSTEMS FOR GEL-BASED MEDICAL IMPLANTS	:	

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 28 July 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.

Applicants have 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 deposit account to which applicants authorized the charging of additional fees, 11-1450, could not be located.

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 issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the fee for filing the search fee, examination fee or oath or declaration after 30 months 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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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Jonathan Hughes	: DECISION ON REQUEST FOR
Patent Number	: 7608191	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,582	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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16 MAY 2007

LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY, NY 10952

In re Application of EILAM et al	:	
U.S. Application No.: 10/587,618	:	
PCT Application No.: PCT/US2004/002696	:	DECISION
Int. Filing Date: 30 January 2004	:	
Priority Date Claimed: none	:	
Attorney Docket No.: YOR920030587US1	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 10 May 2007. The requisite $400.00 petition fee has been submitted.

The petition requests correction of the Transmittal Letter (Form PTO-1390) filed 27 July 2006. A review of the application file reveals that although the Transmittal Letter listed international application number PCT/IB2004/002696, the papers filed 27 July 2006 are generally consistent with PCT/US2004/002696. Applicant's explanation for the error is accepted.

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 July 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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24 OCT 2006

Bradford P. Schmidt
Harness, Dickey & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, MO 63105

In re Application of	:	
SCHELLER, et al.	:	
U.S. Application No.: 10/587,637	:	DECISION ON PETITION
PCT No.: PCT/EP04/14143	:	
Int. Filing Date: 13 December 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 18 December 2003	:	
Attorney Docket No.: 6102-000034/US/NP	:	
For: (S)-2-N-PROPYLAMINO-5-HYDROXYTETRALIN	:	
AS A D3-AGONIST	:	

The petition to revive under 37 CFR 1.137(b) filed 28 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

It is noted that the first page of applicant's petition, although stating that the patent designating the U.S. was abandoned unintentionally, references 37 CFR 1.137(a), the citation for an application abandoned unavoidably. In addition, page two of the petition is entitled "Petition For Revival of an International Application For Patent Designating The U.S. Abandoned **Unavoidably Under 37 CFR 1.137(a)**" (boldness added). However, since applicant has provided a statement under 37 CFR 1.137(b), identified and provided payment of the 37 CFR 1.137(b) large entity petition fee of $1500.00 and identified the petition in the transmittal letter as a petition under 37 CFR 1.137(b), the petition has been so treated. As detailed above, applicant has satisfied all the requirements for the granting of a 37 CFR 1.137(b) petition to revive.

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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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In re Application of	:	
John P. Toscano III et al.	:	
Application No. 10/587,644	:	DECISION ON PETITION
Filed: November 26, 2008	:	TO WITHDRAW
Attorney Docket No. 61093(71699)	:	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.**

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 does not include a forwarding address. When filing a renewed request the address change should be 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 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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23 MAR 2007

Peter Zawilski
Philips Intellectual Property & Standard
1109 McKay Drive MS41-SJ
San Jose, California

In re Application of	DECISION ON
DEIXLER et al	
Application No.: 10/587,661	
PCT No.: PCT/IB2004/052184	
Int. Filing Date: 24 October 2004	PETITION UNDER
Priority Date: 24 October 2003	
Attorney's Docket No.: US030427US2	
For: METHOD OF ...	
STRUCTURE	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 25 July 2006.

BACKGROUND

On 24 October 2004, this international application was filed, claiming an earliest priority date of 24 October 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 24 April 2006. This international application became abandoned with respect to the United States at midnight on 24 April 2006 for failure to pay the required basic national fee.

On 25 July 2006, applicants filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the national basic fee and the petition fee. However, an executed declaration was not provided at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Tore Toennesen	: DECISION ON REQUEST FOR
Patent Number	: 7663533	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/10/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

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In re Application of	:	
Alfred Freiberger	:	
Application No.: 10/587,689	:	ON PETITION
Filed: July 27, 2006	:	
Attorney Docket No.: FREIBERGER - 1 PCT	:	

This is a decision on the petition, filed March 11, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 8, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3746 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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ROBINS AND PASTERNAK
1731 EMBARCADERO RD.
SUITE 230
PALO ALTO, CA 94303

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OCT 01 2008

Applicant: Miller, et al.
Appl. No.: 10/587,723
International Filing Date: February 3, 2005
Title: METHOD AND COMPOSITION FOR TARGETED CLEAVAGE AND RECOMBINATION
Attorney Docket No.: 8325-0036.31(836-US3)
Pub. No.: US 2007/0218528 A1
Pub. Date: September 20, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 11, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application inventor Lei Zhang's name has been omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the missing inventor may be an Office error, but it is not a material Office error under 37 CFR 1.221. The omission of an inventor's name and residence does not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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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21 AUG 2006

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of FENTON et al. Application No.: 10/587,733 PCT No.: PCT/GB04/00405 Int. Filing: 03 February 2004 Priority Date: 03 February 2003 Attorney Docket No.: DEP5043 For: AN INSTRUMENT FOR POSITIONING A CUP COMPONENT OF AN ORTHOPAEDIC JOINT PROSTHESIS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has 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
PCT Legal Office
Office of PCT Legal Administration

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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DAY PTINEY LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Yukio Kinoshita	:	DECISION ON PETITION
Application No. 10/587,737	:	TO WITHDRAW
Filed: June 11, 2007	:	FROM RECORD
Attorney Docket No. 005649.118699	:	

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 23, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED.**

A review of the file record indicates that Robert L. Norton does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Mr. Norton not having power of attorney. Therefore, all future communications from the Office will continue to be directed solely to the address of record.

Currently this application has been docketed and is awaiting examination.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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7 TIMES SQUARE
NEW YORK NY 10036-7311

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Yukio Kinoshita	:	DECISION ON PETITION
Application No. 10/587,737	:	TO WITHDRAW
Filed: June 11, 2007	:	FROM RECORD
Attorney Docket No. 005649.118699	:	

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 14, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by John F. Gulbin on behalf of all attorneys of record who are associated with customer No. 29540.

All attorneys/agents associated with the Customer Number 29540 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 at the address indicated below.

Currently, there is an outstanding Office action mailed May 27, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Yukio Kinoshita
c/o Melco Japan K.K., I.S. Motor Japan
950-46 Tabiko
Hitachinaka-shi, Ibaraki 312-0063 Japan

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
BOZINOVSKI, et al. :
Application No. 10/587,754 : DECISION ON PETITION
Filed: July 28, 2006 : TO WITHDRAW
Attorney Docket No. **449122087300** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Lawrence E. Ashery
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of: MAEKAWA, Hajime et. al.
Application No. 10/587,778
Filed: July 28, 2006
Atty Docket No: MAT-8872US
Title of Invention: COMMUNICATION SYSTEM, INFORMATION PROCESSING SYSTEM, INFORMATION PROCESSING APPARATUS, TUNNEL MANAGEMENT APPARATUS, INFORMATION PROCESSING METHOD, TUNNEL MANAGEMENT METHOD, AND PROGRAM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to petition filed 08/24/06 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 is **Granted**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h) (e.g. credit card authorization Form PTO-2038);
>
> (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.

Petition to Make Special is **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Any inquiry regarding this decision should be directed to undersigning Beatriz Prieto, Workgroup Quality Assurance Specialist (WQAS), at (571) 272-3912. A second point of contact is WQAS Kim Huynh whose number is (571) 272-4147

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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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.
10/587,778	07/28/2006	Hajime Maekawa	MAT-8872US	9923

52473 7590 05/03/2010
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER
BENOIT, ESTHER

ART UNIT	PAPER NUMBER
2442	

MAIL DATE	DELIVERY MODE
05/03/2010	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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Harness, Dickey, & Pierce, P.L.C
7700 Bonhomme, Suite 400
St. Louis, MO 63105

In re Application of LOPEZ-RODRIGUEZ et al. :
Application No.: 10/587,792 :
PCT No.: PCT/EP05/00840 : DECISION ON REQUEST
Int. Filing Date: 28 January 2005 :
Priority Date: 30 January 2004 :
Attorney Docket No.: 6102-000031/NP :
For: DIAZA- OR THIAZADIONE :
DERIVATIVES WITH
NEUROPROTECTIVE ACTIVITY

This decision is issued in response to applicant's "Response to Notification to File Missing Requirements under 35 U.S.C. 371 and Declaration under 35 U.S.C. 371(c)(4) and Inventor Statements under 37 CFR 1.497(d)(1)" filed 16 August 2007 which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d). The $130 petition fee will be charged to Deposit Account no. 08-0750.

BACKGROUND

On 28 January 2005, applicant filed international application PCT/EP05/00840 which claimed a priority date of 30 January 2004. The published international application identified five applicant/inventors for the United States: Maria Luz LOPEZ RODRIGUEZ; Bellinda BENHAMU SALAMA; Joaquin DEL RIO ZAMBRANA; Diana FRECHILLA MANSO; and Isabel MARCO MARTINEZ. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 July 2006.

On 31 July 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 27 February 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 16 August 2007, applicant filed the present request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Isabel MARCO MARTINEZ from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to item (1), applicant has submitted a statement from the inventor being removed, Isabel MARCO MARTINEZ, in which the inventor states that the earlier error in inventorship did not result from deceptive intent on her part.[1] Item (1) is therefore

---

[1]It is assumed that Isabel MARCO MARTINEZ was mistakenly listed on the international application. If in fact she was correctly listed in the PCT Request form and is now being removed because of a change in the claims, applicant should proceed pursuant to 37 CFR 1.48.

It is noted that the filing of a petition under 37 CFR 1.48(b) is not applicable prior to the application being executed by all the named inventors (including Isabel MARCO MARTINEZ). Under 35 U.S.C. 363, an international application designating the United States has the effect of a national application for a patent regularly filed in the United States. In other words, the U.S. national stage application is considered to have been filed on the international filing date in the names of the inventors/applicants for the United States of America listed on the REQUEST form.

37 CFR 1.48(f)(1), by its terms, applies only to a non-provisional application filed under 37 CFR 1.53(b). (See also, 37 CFR 1.9(a)(3)). A national application resulting from an international application entering the national stage under 37 U.S.C. 371 is not an application filed under 37 CFR 1.53(b), but an application that has entered that national stage under 37 CFR 1.494 or 1.495.

satisfied.

With respect to item (2), applicant has submitted the required $130 processing fee. Item (2) is therefore satisfied.

Item (3) has not been satisfied. Applicant has not provided the assignee's consent to the removal of Isabel MARCO MARTINEZ as an inventor herein. Applicant must provide such consent before item (3) can be considered satisfied. Such consent must be accompanied by a statement under 37 CFR 3.73(b) which includes either a copy of the assignment documents or a specific reference to the assignment's recorded location in the USPTO (i.e., reel and frame number) (see 37 CFR 3.73(b)).

Item (4) does not apply to the present application.

Because applicant has not satisfied all the requirements of 37 CFR 1.497(d), inventor Isabel MARCO MARTINEZ cannot be removed from the application on the present record.

CONCLUSION

Applicant's request to remove inventor Isabel MARCO MARTINEZ under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicant must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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1 7 APR 2008

Harness, Dickey, & Pierce, P.L.C
7700 Bonhomme, Suite 400
St. Louis, MO 63105

In re Application of LOPEZ-RODRIGUEZ et al. :
Application No.: 10/587,792 :
PCT No.: PCT/EP05/00840 : DECISION ON REQUEST
Int. Filing Date: 28 January 2005 :
Priority Date: 30 January 2004 :
Attorney Docket No.: 6102-000031/NP :
For: DIAZA- OR THIAZADIONE :
DERIVATIVES WITH
NEUROPROTECTIVE ACTIVITY

This decision is issued in response to applicant's "Response to Decision on Request Dated 10 December 2007" filed 18 March 2008 which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d). No petition fee is due.

BACKGROUND

On 28 January 2005, applicant filed international application PCT/EP05/00840 which claimed a priority date of 30 January 2004. The published international application identified five applicant/inventors for the United States: Maria Luz LOPEZ RODRIGUEZ; Bellinda BENHAMU SALAMA; Joaquin DEL RIO ZAMBRANA; Diana FRECHILLA MANSO; and Isabel MARCO MARTINEZ. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 31 July 2006.

On 31 July 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 27 February 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 16 August 2007, applicant filed a request under 37 CFR 1.497(d). In a decision dated 10 December 2007, applicant's request under 37 CFR 1.497(d) was dismissed without prejudice.

On 18 March 2008, applicant filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Isabel MARCO MARTINEZ from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

Applicant's submission satisfies the requirements of 37 CFR 1.497(d). Applicant has submitted a statement from each person being deleted as an inventor in compliance with 37 CFR 1.497(d)(1). The $130 processing fee required under 37 CFR 1.1497(d)(2) has been submitted. And applicant has submitted a statement of consent by the assignee, along with a copy of the Assignment document by which the assignee obtained its interest in the present application.

Based on the above, applicant's request to delete Isabel MARCO MARTINEZ as an inventor is appropriately granted. Based on this correction, the declaration filed on 16 August 2007 (which named Maria Luz LOPEZ RODRIGUEZ; Bellinda BENHAMU SALAMA; Joaquin DEL RIO ZAMBRANA; and Diana FRECHILLA MANSO) is acceptable under 37 CFR 1.497.

CONCLUSION

Applicant's request for correction of inventorship under 37 CFR 1.497(d) is **GRANTED**.

Isabel MARCO MARTINEZ has been deleted as an inventor.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
DIMITROVA et al.	:	DECISION
Application No.: 10/587,799	:	
PCT No.: PCT/IB2005/050399	:	
Int. Filing Date: 31 January 2005	:	
Priority Date: 02 February 2004	:	
Attorney's Docket No.: US040102	:	
For: CONTINUOUS FACE RECOGNITION	:	
WITH ONLINE LEARNING	:	

This decision is in response to applicants' submission filed 09 July 2008, which has properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 31 January 2005, applicants filed international application PCT/IB2005/050399 which designated the U.S. and claimed a priority date of 02 February 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2006.

On 31 July 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 two declarations of inventors

On 26 June 2008, 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 the declarations of the inventors filed 31 July 2006 were not in compliance with 37 CFR 1.497(a)-(b) because the second inventor's name was different on the declaration than it was on the international application.

On 09 July 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.182.

DISCUSSION

The declarations of inventors submitted 09 July 2008 do not comply with 37 CFR 1.497(a)-(b) because they does not list the correct inventorship. There is a difference in names in the second-named inventor between the published international application (Jan Fen SHENZEN) and the declaration of the inventor (Jun FAN). Because this difference in names is more than a mere typographical error, a transliteration error, or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as a statement from the inventor.

The petition fee of $400 has been charged to Deposit Account 141270. The petition requests that the name of the second inventor be clarified from "SHENZEN, JAN FAN" to "FAN, JUN". As noted above, a statement from the inventor is required.

It is noted that the declaration of inventors signed by Jan FUN fails to comply with 37 CFR 1.497(a)-(b) for a reason in addition to the one discussed above. This declaration executes one of the priority applications rather than international application number PCT/IB2005/050399 or the specification filed in the DO/EO/US on 31 July 2006.

CONCLUSION

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/
Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301; Facsimile: (571) 273-0459

13 APR 2009

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
DIMITROVA et al.	:	DECISION
Application No.: 10/587,799	:	
PCT No.: PCT/IB2005/050399	:	
Int. Filing Date: 31 January 2005	:	
Priority Date: 02 February 2004	:	
Attorney's Docket No.: US040102	:	
For: CONTINUOUS FACE RECOGNITION	:	
WITH ONLINE LEARNING	:	

This decision is in response to applicants' submission filed 26 January 2009, which has properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 31 January 2005, applicants filed international application PCT/IB2005/050399 which designated the U.S. and claimed a priority date of 02 February 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2006.

On 31 July 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 two declarations of inventors

On 26 June 2008, 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 the declarations of the inventors filed 31 July 2006 were not in compliance with 37 CFR 1.497(a)-(b) because the second inventor's name was different on the declaration than it was on the international application.

On 09 July 2008, applicants filed a submission which was properly treated as a petition under 37 CFR 1.182.

On 01 October 2008, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.182. Specifically, it was noted that the difference in names was more than a mere typographical error, a transliteration error, or a phonetic misspelling of applicant's legal name, and that a proper petition under 37 CFR 1.182 asa well as a statement from the inventor was required in order to resolve the matter. The decision also noted that the declaration of inventors filed 09 July 2008 executed an incorrect application.

On 26 January 2009, applicants filed the instant submission which was accompanied by, *inter alia*, a new declaration of inventors.

DISCUSSION

The submission filed 26 January 2009 concerning the name of Jun FAN adequately explains that the inventor's correct name is Jun FAN and that the name listed in the international application is inaccurate. This explanation of the difference in names between the international application and the declaration of inventors is accepted and noted for the record. A statement from the inventor is not required.

Accordingly, the declaration filed 26 January 2009 is 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.

/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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KLARQUIST SPARKMAN, LLP
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SUITE 1600
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Papania	:	
Application No. 10/587,814	:	DECISION ON PETITION
Filed:	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 6395-68278-03	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed July 28, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
>
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lacks item (A). The petitioner states "AerovecRx asserts that it has sufficient capital through outside investors and facilities to manufacture the invention in quantity to be made available to AerovectRx if a patent is granted." The petitioner did not state the approximate amount of the possession by the prospective manufacturer of sufficient presently available capital.

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 Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1615 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE 1600
PORTLAND, OR 97204

COPY MAILED

OCT 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Papania	:	
Application No. 10/587,814	:	DECISION ON PETITION
Filed:	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 6395-68278-03	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(d), filed January 30, 2007, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is accompanied by a declaration by Jeffrey B. Haendler, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1615 for action on the merits commensurate with this decision.

David Buccei
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Jichu Yang	: DECISION ON REQUEST FOR
Patent Number	: 7608630	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,824	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **84** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

30 AUG 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Powers et al.	:	
Application No.: 10/587,846	:	DECISION
PCT No.: PCT/US04/35805	:	
Int. Filing Date: 27 October 2004	:	ON
Earliest Priority Date: 28 October 2003	:	
Attorney Docket No.: 038923-0197	:	PETITION
For: Triazole Compounds And Uses Related Thereto	:	

The petition to revive under 37 CFR 1.137(b) filed 28 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply, from the due date of the reply until the filing of the instant petition, which is believed to be a grantable petition, was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b). The surcharge under 37 CFR 1.492(h) has been paid.

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

08/31/2006 SBASHEIR 00000003 10587846
01 FC:1617 130.00 OP

04 FC:1618 -130.00 OP

06 SEP 2006

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Alexandria, VA 22313-1450
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Scully Scott Murphy & Presser, PC
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re Application of	:	
HEIKKILÄ, Heikki et al.	:	
Application No.: 10/587,870	:	DECISION
PCT No.: PCT/FI04/00641	:	
Int. Filing Date: 29 October 2004	:	ON PETITION UNDER
Priority Date: 30 October 2003	:	
Docket No.: 17195Z	:	37 CFR 1.137(b)
For: SEPARATION PROCESS	:	

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 28 July 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.

Applicants supplied a declaration of inventorship for the United States under PCT Rule 26ter, however it is not in compliance with 37 CFR 1.497(a)-(b). The declaration appears to have been pieced together from separately executed declarations as each sheet "4/5" lists the same inventors, but each was separately executed. While it is acceptable for inventors to execute separate copies of the declaration, the complete copy of the declaration, as executed by the inventor, must be furnished to the Office. The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 19-1013, 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 mailing of a Notification of Missing Requirements, 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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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of

MATHIEU, Daniele et al.
Application No. 10/587,874
Filed: July 28, 2006
Attorney Docket No. **BDM-06-1215**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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.

There are no outstanding office actions at this time.

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

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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PHILADELPHIA, PA 19103

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MAY 27 2008

In re Application of

MATHIEU, Daniele et al.
Application No. 10/587,874
Filed: November 16, 2006
Attorney Docket No. **BDM-06-1215**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 30, 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.

There are no outstanding office actions at this time.

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

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PHILADELPHIA, PA 19103

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JUL 23 2008

In re Application of	:	
MATHIEU, Daniele et al.	:	
Application No. 10/587,874	:	DECISION ON PETITION
Filed: November 16, 2006	:	TO WITHDRAW
Attorney Docket No. BDM-06-1215	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 04, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to IP GROUP OF DLA PIPER US LLP has been revoked by the assignee of the patent application on May 29, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**
1940 DUKE STREET
ALEXANDRIA VA 22314

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

1 0 OCT 2007

WOLF GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of: MATHIOWITZ, Edith, et al. U.S. Application No.: 10/587,884 PCT No.: PCT/US2004/015443 International Filing Date: 17 May 2004 Priority Date: 29 January 2004 Attorney Docket No.: B0877.70027US01 For: METHODS FOR PROGENIOTR CELL RECRUITMENT AND ISOLATION	DECISION ON PETITION TO CHANGE INVENTOR'S NAME (37 CFR 1.182)

This decision is issued in response to applicants' 05 June 2007 submission of an executed declaration and supplemental Application Data Sheet (ADS) in which the name of the second inventor has been changed. This submission has been treated as a petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES. Deposit Account No. 23-2825 will be charged the required $400 petition fee.

BACKGROUND

On 17 May 2004, applicants filed international application PCT/US2004/015443. The application claimed a priority date of 29 January 2004, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 29 July 2006. The published international application identified the second inventor as Diana M. FERRIS.

On 27 July 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 02 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 05 June 2007, applicants filed the response to the Notification Of Missing Requirements considered herein. The response includes payment of the required surcharge and a declaration executed by the second inventor in which this inventor is identified as Diana M. JAMES (the declaration indicates that this is the inventor's married name). Applicants'

submission also includes a supplemental ADS in which the name of the second inventor has been changed to Diana M. JAMES.

Applicants' 05 June 2007 submission is treated herein as a petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES, as required before the declaration filed 05 June 2007 may be accepted under 37 CFR 1.497.

DISCUSSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following (emphasis added):

> **Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name.** See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

In the present application, the discrepancy between the second inventor's name as listed in the international application (FERRIS) and in the filed declaration (JAMES) is more than a "typographical or transliteration error." Accordingly, in order to correct the name of record for this inventor, a grantable petition under 37 CFR 1.182 is required.

Section 605.04(c) of the MPEP, referred to above, sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' 05 June 2007 submission included the authorization to charge Deposit Account No. 23-2825 for required fees. Based on this authorization, Deposit Account No. 23-2825 will be charged the required $400 petition fee. However, applicants' submission does not include the required "statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Based on the above, applicants have failed to submit all the requirements of a grantable petition to correct the second inventor's name; therefore, the name of record for the second

inventor remains Diana M. FERRIS. Because the declaration filed 05 June 2007 identifies the second inventor as Diana M. JAMES, this declaration does not properly identify the inventors of record herein. The declaration is therefore defective for failure to comply with the requirements of 37 CFR 1.497(a).

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES is **DISMISSED** without prejudice.

On the present record, the declaration filed 05 June 2007 is defective for failure to properly identify the inventors of record herein.

If reconsideration of the petition under 37 CFR 1.182 on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration must include the required statement signed by the inventor whose name is to be changed, setting forth both names and the procedure whereby the change of name was effected (i.e., due to marriage), or a copy of the court order changing the inventor's name, as discussed above and in the MPEP.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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0 8 MAY 2008

WOLF GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of: MATHIOWITZ, Edith, et al. U.S. Application No.: 10/587,884 PCT No.: PCT/US2004/015443 International Filing Date: 17 May 2004 Priority Date: 29 January 2004 Attorney Docket No.: B0877.70027US01 For: METHODS FOR PROGENIOTR CELL RECRUITMENT AND ISOLATION	DECISION ON RENEWED PETITION TO CHANGE INVENTOR'S NAME (37 CFR 1.182)

This decision is issued in response to the "Request For Reconsideration Of Decision On Petition To Change Inventor's Name Under 37 CFR 1.182" filed by applicants on 10 December 2007, treated herein as a renewed petition under 37 CFR 1.182. No additional petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed herein on 10 October 2007. The decision dismissed applicants' original petition under 37 CFR 1.182 for failure to provide all the requirements for a grantable petition. Specifically, applicants had not provided the required statement from the inventor whose name was to be changed.

On 10 December 2007, applicants filed the ""Request For Reconsideration Of Decision On Petition To Change Inventor's Name Under 37 CFR 1.182" treated herein as a renewed petition.

DISCUSSSION

The renewed petition includes a "Statement Of Diana M. James" executed by Diana M. JAMES confirming that, as a result of marriage, her name had been changed from Diana M. FERRIS (the name listed in the international application) to Diana M. JAMES (the name set forth on the declaration and supplemental ADS filed herein on 05 June 2007). This statement from the inventor satisfies the final requirement for a grantable petition to change the name of record for this inventor to Diana M. JAMES.

Based on the above correction of the inventor's name, the declaration filed 05 June 2007 is no longer defective for failure to name the correct inventive entity.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES is **GRANTED**.

Based on the above, the declaration filed 05 June 2007 is no longer considered defective for failure to properly identify the correct inventive entity herein.

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 05 June 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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STERNE KESSLER GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Theodore W. Jochum	: DECISION ON REQUEST FOR
Patent Number	: 7590500	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STERNE KESSLER GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Theodore W. Jochum	: DECISION ON REQUEST FOR
Patent Number	: 7590500	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/587,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

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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Philippe Courty
89 bd. EXELMANS
75016 Paris FR FRANCE

In re Application of	DECISION ON
Philippe Courty	
Application No.: 10/587,891	
PCT No.: PCT/FR03/01662	
Int. Filing Date: 03 June/2003	PETITION UNDER
Priority Date: NA	
Attorney's Docket No.: NA	
For: DOUBLE-BARRELLED BODY FOR	
A PERSONAL FIREARM	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 31 July 2006.

BACKGROUND

On 03 June 2003, this international application was filed. A copy of the international application was transmitted to the United States from the International Bureau on 11 December 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 03 December 2005. This international application became abandoned with respect to the United States at midnight on 03 December 2005 for failure to pay the required basic national fee.

On 31 July 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).

However, applicant has not paid the surcharge of $65.00 for furnishing the executed declaration after the date of commencement of the national stage under 37 CFR 1.492(h). As result, at this time the executed declaration has not been accepted for processing.

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, and to mail a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that surcharge of $65.00 under 37 CFR 1.492(h) has not be paid.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

In re Application of	:	
Niels Werner Larsen	:	
Application No. 10/587,898	:	ON PETITION
Filed: July 28, 2006	:	
Attorney Docket No. P08961US00/DEJ	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), 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 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition lacks item (1), the required reply. The petitioner did not submit an election of species under 35 USC 121 as specified in the Notice, mailed August 25, 2008. Accordingly, this application cannot be revived until a complete response is filed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 Internet: EFS-Web[1]

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Niels Werner Larsen	:	
Application No. 10/587,898	:	ON PETITION
Filed: July 28, 2006	:	
Attorney Docket No. P08961US11/DEJ	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the Restriction Requirement mailed August 25, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed March 17, 2009. On March 19, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 15, 2009. In response, on July 21, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the species to be examined, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2837 for further examination on the merits..

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WASHINGTON DC 20005-1503

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of
Takashi Sato et al.
Application No. 10/587,902
Filed: July 29, 2006
Attorney Docket No.: **2006_1189A**

ON PETITION

This is a decision on the petition filed August 19, 2009 to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181 in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.[1]

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned on December 2, 2008, for failure to file a timely response to the Restriction Requirement mailed October 29, 2008, which set a one (1) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 4, 2009. Petitioner asserts that the office action was never received.

The file record discloses that the Office Action was mailed to the address of record at the time, which is the same address used on all correspondences from the USPTO prior to the mailing of the Office Action. In support of the allegation that the Office

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[1]MPEP 711.03(c) states, in pertinent part:
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.

Action mailed on October 29, 2008 was never received, petitioners have submitted a copy of their docket record and states that a search of the docket and the file jacket indicates that the Office Action was not received. A copy of the docket record and file jacket have been referenced in the petition and are included herewith.

A review of the record indicates no irregularity in the mailing of the Office Action mailed on October 29, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office Action mailed on June 30, 2008, was properly mailed to hhe address of record. This presumption may be overcome by a showing that the Office Action mailed on June 30, 2008 was not in fact received.

The docket record filed with the petition appears to be a master docket record, and is being so construed. Petitioners must inform the Office if this is an incorrect interpretation.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. No fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 1749 for a re-mailing of the Restriction Requirement originally mailed October 29, 2008 and for a restarting of the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions