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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Yeager et al. :
Application No. 10/604,214 : ON PETITION
Filed: July 1, 2003 :
Attorney Docket No. :
08CN6021-9 :

This is a decision on the Petition Pursuant to 37 CFR 1.78(a)(3), filed February 21, 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.

This Petition is hereby **dismissed**.

Applicable Law

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.
>
> The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

As to item (1), 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. A review of the amendment to the specification filed February 26, 2006, reveals that the application fails to comply with the provisions of 37 CFR 1.78(a)(2)(i). The priority claim is therefore unacceptable.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] which sets forth the relationship of the prior-filed application(s) is required.

Any inquiries concerning this decision may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks
Lead Paralegal
Office of Petitions

[1] *Note* 37 CFR 1.121

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BLOOMFIELD, CT 06002

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Yeager et al.	:	
Application No. 10/604,214	:	ON PETITION
Filed: July 1, 2003	:	
Attorney Docket No.	:	
08CN6021-9	:	

This is a decision on the Petition Pursuant to 37 CFR 1.78(a)(3), filed April 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The petition is properly treated under 37 CFR 1.78 §§ (a)(3) and (a)(6).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed 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 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 1751 for appropriate action on the amendment filed February 21, 2006, including consideration by the examiner of applicant's

claim for the benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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JOHN C. SMITH, ESQ.
2499 GLADES ROAD
SUITE 113
BOCA RATON FL 33431

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MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Bradbery, Eric J.	:	DECISION ON PETITION
Application No. 10/604,222	:	TO MAKE SPECIAL
Filed: July 1, 2003	:	37 CFR 1.102(D)
Attorney Docket No. P02049001	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 14, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

The instant petition does comply with the above paragraph, as a copy of the applicant's driver's license was submitted as proof of age. However, a petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

As the instant petition was signed and submitted by Angela Bradbery, the daughter of the applicant, it does not comply with the above.

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

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 2622 for action in its regular turn.

Liana Chase
Petitions Examiner
Office of Petitions

Cc: ANGELA BRADBERY
3710 39th ST., NW
NO. F-174
WASHINGTON, DC 20016

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ERIC J. BRADBERY
11121 HERON BAY BLVD., #4616
CORAL SPRINGS, FL 33076

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Bradbery, Eric J. :
Application No. 10/604,222 : ON PETITION
Filed: July 1, 2003 :
Title: APPARATUS AND METHOD FOR AN ENHANCED READING DEVICE WITH AUTOMATIC LINE REGISTRATION :

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed March 24, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant. A copy of the applicant's Identification Card was previously submitted. Accordingly, the above-identified application has been accorded "special" status.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. 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. A blank Change of Correspondence form is enclosed for petitioner's convenience.

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

This matter is being referred to the Technology Center Art Unit 2625 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/122 – Change of Correspondence Address

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

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

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

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Country

Telephone	Email

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I am the:

☐ Applicant/Inventor

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

☐ Attorney or agent of record. Registration Number _____.

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

Signature

Typed or Printed Name

Date	Telephone

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

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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OFFICE OF PETITIONS

In re Application of	:	
Bradbery, Eric J.	:	DECISION ON PETITION
Application No. 10/604,222	:	TO WITHDRAW
Filed: July 1, 2003	:	FROM RECORD
Attorney Docket No. P02049001	:	

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 9, 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 John C. Smith 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 address indicated below.

The application will mature into Patent No. 7,212,318 on May 1, 2007.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

PAMELA BRADBERY
11121 HERON BAY BLVD., APT 4146
CORAL SPRINGS, FL 33076

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JUN 21 2004

June 21, 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
HUANG, *et al.*
Serial No.: 10/604,223
Filed: July 01, 2003
Attorney Docket No.: ACMP0109USA

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself and there is no outstanding office action requiring a response by the applicant.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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June 21, 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

JUN 21 2004

In re Application of:
CHANG, CHIH-CHIN
Serial No.: 10/604,225
Filed: July 02, 2003
Attorney Docket No.: ADTP0054USA

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself and there is no outstanding office action requiring a response by the applicant.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Kevin W. Harris :
Application No. 10/604,229 : ON PETITION
Filed: July 2, 2003 :
Attorney Docket No. 7298.048.CNUS01 :

This is a decision in response to the petition, filed February 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 9, 2004. A Notice of Abandonment was mailed on June 29, 2005. In response, on February 21, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3727 for consideration of the amendment filed February 21, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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AUG 18 2004

Paper No. 080404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
Hung-Ei Tai *et al.*	:	
Serial No.: 10/604,244	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 3, 2003	:	FROM RECORD
Attorney Docket No.: **LKSP0017USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAIL

FEB 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Shye-Lin Wu
Application No. 10/604,264
Filed: July 7, 2003
For:
FREQUENCY OFFSET DETECTOR FOR AFC UNDER RAYLEIGH FADING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on August 18, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Mord Michael Lewis have been withdrawn for the record.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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NORTH AMERICA INTELLECTUAL
PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

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MAY 17 2006

TECHNOLOGY CENTER 2100

In re Application of: Shye-Lin Wu
Application No. 10/604,267
Filed: July 7, 2003
For: METHOD FOR IMPROVING PROCESSING EFFICIENCY OF PIPELINE ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 18, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

No change of address was provided with the withdrawal of attorney. The correspondence address will remain the same as the original filed address in the application. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Mord Michael Lewis
Registration Number: 50,478

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL V. THOMPSON
9330 LBJ FWY.
SUITE 1185
DALLAS TX 75243

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of :
James R. DULANEY et al. :
Application No. 10/604,317 : ON PETITION
Filed: July 10, 2003 :
Attorney Docket No. B-6097 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, 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 December 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 10, 2005.

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 of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 9, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2837 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

DINNIN & DUNN, P.C.
2701 CAMBRIDGE COURT, STE. 500
AUBURN HILLS MI 48326

In re Application of
Stanley
Application No. 10/604,319
Filed: July 10, 2003
Attorney Docket No. 5701-01292
For: METHOD OF ATTACHING A SEAT BELT TO A SEAT BELT TENSION SENSOR

: DECISION ON
: PETITION

This is a decision on the petition filed October 14, 2003 requesting that Figures 6, 7, 8, 9, 10, 11, 12, 13a, 13b, 14a, and 14b be accorded a filing date of July 10, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on July 10, 2003. On September 22, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioner that Figures 6, 7, 8, 9, 10, 11, 12, 13a, 13b, 14a, and 14b, as described in the specification, appeared to have been omitted.

Petitioners request that Figures 6, 7, 8, 9, 10, 11, 12, 13a, 13b, 14a, and 14b be accorded a filing date of July 10, 2003 on the basis that they were electronically filed with the Patent and Trademark Office (PTO) on July 10, 2003.

A review of the application file reveals that Figures 6, 7, 8, 9, 10, 11, 12, 13a, 13b, 14a, and 14b are present.

Accordingly, the Notice of September 22, 2003 was mailed in error and is hereby vacated. The petition under 37 CFR 1.53(e) is **GRANTED**. Pursuant to petitioner's authorization, the $130.00 petition fee will be refunded to petitioner's credit card.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 10, 2003**. Office records will show that 7 sheets of drawings were present on initial filing. All figures intended to be filed on July 10, 2003, as indicated by their inclusion in the Brief Description of Drawings in the specification filed on July 10, 2003, were present upon initial filing and properly identified.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of
James G. Stanley
Application No. 10/604,319
Filed: July 10, 2003
Attorney Docket No: 5701-01292

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 20, 2004. 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 December 21, 2004. Accordingly, a Notice of Abandonment was mailed April 28, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 3616 for appropriate action on the response filed May 11, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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OFFICE OF THE DIRECTOR
TC 3600

DYKEMA GOSSETT PLLC
2723 SOUTH STATE STREET
SUITE 400
ANN ARBOR, MI 48104

In re application of:
Stephen Lewis Bruford et al.
Application No. 10/604,331
Filed: July 11, 2003
For: PICKUP TRUCK WITH LIFT ASSISTED TAILGATE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on July 11, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The petition is **DISMISSED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) 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; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed July 11, 2003 fails to adequately meet requirement (E) above since the detailed discussion does not include a discussion of how the claimed subject matter is patentable over the references. While applicants describe the invention and the prior art in detail they do not present a comprehensive discussion of how the claims of the present invention patentably define over the found references.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Deputy Commissioner of Patents Examination Policy P.O. Box 1450 Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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.

SUMMARY: Petition to Make Special **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps: 3/4/04

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1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Haggander, Jan	:	
Application No. 10/604,333	:	ON PETITION
Filed: July 11, 2003	:	
Attorney Docket No. 07589.0117.PCUS00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 23, 2006, 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 a Response to the Non-Final Office Action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Haggander, Jan	:	
Application No. 10/604,333	:	ON PETITION
Filed: July 11, 2003	:	
Attorney Docket No. 7589.117.PCUS00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 030304

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

MAR 5 2004

In re Application of:
HSIAO *et al.*
Serial No.: 10/604,342
Filed: July 14, 2003
Attorney Docket No.: **NTCP0007USA**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No.

BERKELEY LAW & TECHNOLOGY
GROUP, LLP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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OFFICE OF PETITIONS

In re Application of :
Chang et al. : DECISION ON APPLICATION
Application No. 10/604,343 : FOR
Filed: July 14, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 112.P14030:

This is a decision on the "Petition to the Director Under 37 CFR 1.181 - Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed February 16, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twenty-seven (27) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **twenty-seven (27)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 16, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On February 16, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants' basis for the application for patent term adjustment is the miscalculation of delay from the December 12, 2005 mailing date of the Final Rejection instead of from the proper May 31, 2005 mailing date of the Notice of Restarted Response Period. As applicants' response was filed on

[1] PALM records indicate that the Issue Payment was filed on February 16, 2007.

October 31, 2006, applicants assert that the total period of applicant delay should be 157 days, not 328 days[2].

Applicants state that the application is not subject to a terminal disclaimer.

In this instance, applicants are correct. Any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As applicants' response was received three months and 61 days after the Notice of Restarted Response Period, the period of applicant delay within the meaning of §1.704(b) is 61 days (i.e. September 1, 2006 to October 31, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 27 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

[2] Applicants agree with the period of adjustment of 184 days for Office delay and the period of reduction of 96 days for applicant delay.

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DALINA LAW GROUP, PC
7910 IVANHOE AVE. #325
LA JOLLA, CA 92037

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OFFICE OF PETITIONS

In re Application of :
David ALBANESE :
Application No. 10/604,355 : DECISION ON PETITION
Filed: July 14, 2003 : TO WITHDRAW
Attorney Docket No. ALB-P001 : 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 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 Daniel Nakaji on behalf of all attorneys associated with Customer Number 36067. All attorneys of record associated with Customer Number 36067 have been withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID ALBANESE
5655 ¼ HUNTINGTON DRIVE N.
LOS ANGELES, CA 90032

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74 MOSHAV TIFRACH
M. P. HANEGEV 85102 IL ISRAEL

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Yechezkal Evan Spero
Application No. 10/604,360
Filed: July 14, 2003
Title of Invention: **MULTIPLE LIGHT-SOURCE ILLUMINATING SYSTEM**

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed October 17, 2006. A response was filed January 17, 2007, but by Advisory Action of January 31, 2007, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed June 26, 2007.

Prior to the filing of the Notice of Abandonment, on April 25, 2007, a Request for Continued Examination (RCE) requesting that the prior filed amendment be considered as the submission required under 37 CFR 1.114 was filed. However, since the application was already abandoned, the RCE was not entered.

This matter is now being referred to Technology Center 2875 for processing the RCE filed April 25, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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NAIPO
NORTH AMERICA INTERNATIUONAL PATENT OFFICE
P. O. BOX 506
MERRIFIED VA 22116

In re Application of
WU, SHYE-LIN
Application No. 10/604363
Filed: July 15, 2003
For:

METHOD FOR IDENTIFYING A DETACHABLE COVER OF A PORTABLE COMMUNICATIONS DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on August 18, 2003.

A grantable request to withdraw as agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Accordingly, the request is **DISMISSED**.

Agent Mord Michael Lewis (50478) listed in the Request to withdraw is not of record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

UNITED STATES PATENT AND TRADEMARK OFFICE

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WK

Mailed: 2-7-07

In re application of	:	
Cooney et al.	:	DECISION ON
Serial No. 10/604,367	:	PETITION
Filed: July 15, 2003	:	
For: Method For Reducing Foreign Material Concentrations In Etch Chambers	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed November 22, 2006, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the information submitted on August 31, 2006 matched with the application be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/604,367

The image of the document will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Anthony J. Canale
IBM Corporation
1000 River Street, 972E
Essex Junction, VT 05452

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PERKINS COIE LLP
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SEATTLE, WA 98111-1208

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OFFICE OF PETITIONS

In re Application of :
Yang Shu, et al. :
Application No.: 10/604,380 : ON PETITION
Filed: July 15, 2003 :
Attorney Docket No.: 41941.8002.US00 :

This is a decision on the petition, filed January 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2007, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated January 2, 2007, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3671 for further processing of the request for continued examination under 37 CFR 1.114 filed January 10, 2007.

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 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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Technology Center 2100

John C. Smith, Esquire
4800 North Federal Highway
Suite A-207
Boca Raton, Florida 33431

In re Application of: Sandra L. Carr et al.	)	DECISION ON PETITION TO
Application No. 10/604,387	)	MAKE SPECIAL UNDER 37
Filed: July 16, 2003	)	C.F.R. §1.102(c) AND MPEP §
For: INTERACTIVE THREE-DIMENSIONAL MULTIMEDIA I/O DEVICE FOR A COMPUTER	)	708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed December 11, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Richard Gelbaugh's birth certificate establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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901 NORTH GLEGE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Albert E. Steinbach et al :
Application No. 10/604,415 :
Filed: July 18, 2003 :
Attorney Docket No. 839-1398 :

This is a decision on the petition, filed June 8, 2005, 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 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 10/604,419 :
Filed: July 18, 2003 :
Docket No.: FIS920030154 :

This decision is in response to the petition filed May 5, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned February 18, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed November 17, 2005, which set a three month statutory period of time for reply. Notice of Abandonment was mailed April 10, 2006.

Petitioners assert non-receipt of the Notice mailed November 17, 2005.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt 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 non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner' arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Notice mailed November 17, 2005 was not received.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 2600 for re-mailing of the Notice.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

COPY MAILED
JUL 28 2006
OFFICE OF PETITIONS

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 10/604,419 :
Filed: July 18, 2003 :
Docket No.: FIS920030154 :

This decision is in response to the petition filed May 5, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. This decision corrects the decision inadvertently mailed June 1, 2006 to the incorrect correspondence address.

The petition is **GRANTED**.

The application was held abandoned February 18, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed November 17, 2005, which set a three month statutory period of time for reply. Notice of Abandonment was mailed April 10, 2006.

Petitioners assert non-receipt of the Notice mailed November 17, 2005.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt 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 non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above

may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner' arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Notice mailed November 17, 2005 was not received.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 2600 for re-mailing of the Notice.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 22 2005

TECHNOLOGY CENTER 3600

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-
SUITE 101
ELLICOTT CITY, MD 21043

In re application of
Charles Ay
Application No. 10/604,428 :
Filed: July 21, 2003 :
For: RECESSED HANGING APPARATUS :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on June 7, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A) above.

As to Item A), currently attorney David Kleiman is the only attorney associated with Customer Number 44299, however, according to the original declaration power of attorney, two other attorneys are of record in this application. If only the attorneys of record are to be withdrawn, any renewed request must clearly so state.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/dcg: 7/26/05

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JUL 29 2004

Technology Center 2100

Mark White
White & Fudala
57 Bedford Street
Suite 103
Lexington, MA 02420

In re Application of: Karabatsos	)	
Application No. 10/604,455	)	**DECISION ON PETITION TO MAKE**
Filed: July 22, 2003	)	**SPECIAL UNDER**
For: HIGH SPEED DATA-RATE	)	**M.P.E.P.§708.02(IV): APPLICANT'S**
CONVERTING AND SWITCHING	)	**AGE**
CIRCUIT	)	

This is a decision on the petition, filed September 23, 2003 (duplicate Fax copies filed February 12 & February 25, 2004), under 37 C.F.R. 1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(c), and M.P.E.P. §708.02, Section IV, must include evidence showing that the applicant is 65 years of age or more. Evidence in the form of a birth certificate or applicant's statement is sufficient. There is no fee required for such a petition.

The petition filed September 23, 2003 includes a copy of applicant's U.S. passport face page with his date of birth, thus the requirements set forth above are met.

The petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

7/28/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0885

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Mailed: 1-3-06

In re application of :
Stein et al. : DECISION ON
Serial No. 10/604,459 : PETITION
Filed: July 23, 2003 :
For: METHOD AND APPARATUS TO ADAPTIVELY COOL A WELDING-TYPE SYSTEM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 19, 2005.

On March 24, 2005, a non-final office action was mailed to applicants rejecting all of the claims over various prior art references. Among the rejections was a rejection under 35 USC 102 (b) over French Patent 2,536,320 which was cited by Applicants in an IDS. In the rejection, the examiner referred to a translated abstract, the specification and the figures. Applicants responded to the office action on May 17, 2005. In the response, it was argued that the reliance upon an abstract is improper and it was requested that the examiner provide a translation and rely upon the entire French document in any subsequent rejections. In response, the examiner prepared a final office action repeating the same rejections and provided Applicants with a translation of the French document. Applicants requested the withdrawal of the finality of the office action on August 2, 2005 by way of a telephone message left with the examiner.

On September 22, 2005 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the July 19, 2005 office action.

Applicants position for the withdrawal of the finality is that no clear issue as been established between the examiner and applicants prior to the final rejection.

DECISION

Section 706.07 of the MPEP states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that it is not proper to maintain a rejection that was based in whole or in part on a non-English language document and make such an action final.

Throughout the petition, Petitioner refers to Section 2271 of the MPEP. This section is not applicable to the instant situation in that it is directed to the Citation of Prior art in Patents and Reexamination Proceedings. These proceedings are quite different than Ex Parte prosecution of pending applications. It is noted on the bottom of page 2 in the instant petition, that Petitioner has cited references to the Patent Owner. Once again, this is quite different than an applicant for a pending patent. While in a Reexamination proceeding it is required to give the Patent Owner references and information twice, there is no patent owner present in the instant proceedings.

Additionally, Petitioner refers to Section 706.02 of the MPEP which concerns foreign documents. This section merely requires the examiner to obtain a translation of the document. The section is silent as to when this must occur. In fact, Section 901.05(d) states in part:

> 901.05(d) [R-3] Translation
> Examiners may consult the translators in the *>Translations< Branch of the Scientific and Technical Information Center (STIC) for oral assistance in translating foreign patents or literature that are possible references for an application being examined. Examiners may also request written translations of pertinent portions of references being considered for citation or already cited in applications. See MPEP § 901.06(a), STIC Services - Translations, and MPEP § 903.03, Availability of Foreign Patents.
> **Examiners may request written translations at any point in the examination process, at the discretion of the individual examiner, but are encouraged to use oral assistance and/or language reference resources as much as possible in the early phases of examination.** (emphasis added)

This clearly allows for examiners to obtain written translations at any point in the examination process. Oral translations are encouraged due to the tremendous burden that would be placed upon the Translation branch if all foreign language documents that are used in prosecution were submitted for translation. Along those same lines, if Petitioner's position was correct that no foreign language document could properly be used in a rejection unless a translation was obtained, then current pendency in the office would grow to tremendously unacceptable levels. In the instant case, the examiner relied upon an English language abstract, a partial oral translation and the figures of the reference to support the position of the rejection. It is also noted that the French document in question was cited and submitted to the office so it is logical to assume that Applicants were at least somewhat familiar with the document in question. After the non-final office action was sent, applicants had the opportunity to respond to these positions but merely elected to argue that the examiner improperly rejected the claims over an abstract and that said abstract did not meet the claims. In this case, the arguments were not applicable because it was clear from the statement of rejection that the examiner was relying on the actual French document for the basis of the rejection, with the abstract cited to merely support in part his position that the reference met the claimed limitations.

The question of finality comes down to whether the examiner introduced a new ground of rejection in the final office action. In this case, the rejection did not change. The claims were rejected over the same statute and the same piece of prior art. As to whether a clear issue was developed, the examiner's position and reasoning did not change from one action to the next. He

relied upon the same teachings of the French document. The fact that a translation was obtained merely supports and confirms the position initially taken by the examiner. As to whether a clear issue has been established, the examiner's position did not change from the non-final office action to the final office action. The fact that Applicants did not argue the teachings of the French reference as set forth by the examiner in the non-final office action does not change the fact that the examiner has clearly established the position taken by the office.

Accordingly, the finality of the July 19, 2005 office action was proper and the petition is **DENIED.**

Applicant's time for response to the July 19, 2005 office action continues to run as set forth in the office action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)
14135 NORTH CEDARBURG ROAD
MEQUON WI 53097

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Mailed: 3/15/06

In re application of :
Stein et al. : DECISION ON
Serial No. 10/604,459 : PETITION
Filed: July 23, 2003 :
For: METHOD AND APPARATUS TO ADAPTIVELY COOL A WELDING-TYPE SYSTEM

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 19, 2005.

DECISION

Applicants have requested reconsideration of the petition decision mailed January 3, 2006 which denied the petition requesting withdrawal of the finality of the office action mailed July 19, 2005. It is noted that the six month period for reply to the July 19, 2005 office action has expired and the application is now abandoned.

Rule 181 states:

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

First the issue of abandonment will be addressed. Applicants have a duty to maintain pendency of the application. As stated above, a petition will not act as a stay of any period for reply or any other proceedings. Applicant still had an obligation to respond to the outstanding office action, either by amendment or other appropriate action. No response was filed and the application was properly abandoned by the examiner. It is also pointed out that even if the finality of the office action was to be withdrawn, the grounds of rejection in the office action would still apply. There would be no remailing of the office action or any restarting of time to respond because applicants would have already had a complete office action and a full time period set forth by the office action to respond.

Accordingly, because the instant application is abandoned, the instant petition is moot and is hereby **DISMISSED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)
14135 NORTH CEDARBURG ROAD
MEQUON WI 53097

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OCT 16 2006

OFFICE OF PETITIONS

MESMER & DELEAULT, PLLC
1 NEW HAMPSHIRE AVE.
SUITE 125
PORTSMOUTH NH 03801

In re Application of :
Richard Brea :
Application No. 10/604,463 : DECISION ON PETITION
Filed: July 23, 2003 : TO WITHDRAW
Attorney Docket No. DCC.US.1 : 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 3, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 24111. 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).

Phillip E. Decker signed the request on behalf of all attorneys of record.

Phillip E. Decker and all attorneys/agents associated with application 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 listed on the ADS filed on July 23, 2003 indicated below.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Richard Brea
1 New Hampshire Ave.
Suite 125
Portsmouth, NH 03801

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/604,463	07/23/2003	Richard Brea	OCC.US.1

CONFIRMATION NO. 1462

"OC000000020605377"

24111
MESMER & DELEAULT, PLLC
1 NEW HAMPSHIRE AVE.
SUITE 125
PORTSMOUTH, NH 03801

Date Mailed: 09/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/03/2006.

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

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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AUG 11 2004

Paper No. 080404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
Shih-Huang Huang	:	
Serial No.: 10/604,472	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 23, 2003	:	FROM RECORD
Attorney Docket No.: **MTKP0052USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MICHAEL A. CANTANIA
CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD, CA 92008-7328

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of
DESHMUKH
Application No. 10/604,518
Filed: July 28, 2003
Attorney Docket No. PU2148

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due and Notice of Allowability, mailed March 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 23, 2005.

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 corrected drawings in compliance with 37 CFR 1.84; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is referred to the Office of Patent Publication.

Denise Pothier
Petitions Examiner
Office of Petitions

Enc: Notice of Draftsperson's Patent Drawing Review (Form PTO-948)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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March 13, 2006

Steven Capella
IBM CORPORATION
2070 Route 52, Bldg. 321/ Zip482
Hopewell Junction, NY 12533

Patent No.: 6838334 B1
Application No.: 10/604562
Inventor(s): **Oleg Gluschenkov, et al.**
Issued: January 4, 2005
Title: **METHOD OF FABRICATING A BURIED COLLAR**

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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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Paper No.

JACKSON ESQUIRE
ROGER A. JACKSON
1115 GRANT STREET
SUITE G-7
DENVER CO 80203-2399

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Elmer M. Johnson et al. :
Application No. 10/604,570 : DECISION ON PETITION
Filed: July 30, 2003 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: 1111.03001 :
Title: DOOR SECURITY APPARATUS :

This is a decision on the petition filed on July 3, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

A Notice of Allowance and Issue Fee Due (first notice) was mailed on December 1, 2006, which set a three-month period for the submission of the issue and publication fees. No extensions of time are permitted for transmitting issue or publication fees[1].

On February 1, 2007, the Office mailed a "Notice to File Corrected Application Papers - Notice of Allowance Mailed" (second notice), which indicated that corrected drawings were required. The notice set a two-month non-extendable period for response.

As such, the Office set **two concurrent deadlines**: both notices indicated that unless Petitioner submitted the issue and publication fees by March 1, 2007 and the corrected drawings by April 1, 2007, the present application would go abandoned. **Each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.**

1 See MPEP §710.02(e).

Corrected drawings were received on March 31, 2007. No response to the first notice was received, and accordingly, the above-identified application became abandoned on March 2, 2007. A Notice of Abandonment was mailed on May 3, 2007.

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

35 U.S.C. 151 Issue of patent.

If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

37 C.F.R. § 1.134: Time period for reply to an Office action.

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

37 C.F.R. § 1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

With the present petition, Petitioner has submitted both the issue and publication fees, and has asserted that he was "under the impression" that the second notice "put a stay on the pending" first notice and that a subsequent Notice of Allowability and Issue Fee Due would be issued at a later date[2].

This understanding was incorrect. As set forth above, each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.

Petitioner failed to submit the issue and publication fees in a timely manner, and as such, the present application went abandoned by operation of law, pursuant to the law and regulations cited above.

As such, Petitioner has failed to establish that the holding of abandonment should be withdrawn, and this petition must be **DISMISSED.**

ANALYSIS

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b).

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that

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2 Petition, pages 1-2. See also page 3.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

JACKSON ESQUIRE
ROGER A. JACKSON
1115 GRANT STREET
SUITE G-7
DENVER CO 80203-2399

COPY MAILED

FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Elmer M. Johnson et al. :
Application No. 10/604,570 : DECISION ON PETITION
Filed: July 30, 2003 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: 1111.03001 :
Title: DOOR SECURITY APPARATUS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on December 12, 2007, to revive the above-identified application.

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

A Notice of Allowance and Issue Fee Due (first notice) was mailed on December 1, 2006, which set a three-month period for the submission of the issue and publication fees. No extensions of time are permitted for transmitting issue or publication fees[2].

On February 1, 2007, the Office mailed a "Notice to File Corrected Application Papers - Notice of Allowance Mailed"

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1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP § 710.02(e).

(second notice), which indicated that corrected drawings were required. The notice set a two-month non-extendable period for response.

As such, the Office set **two concurrent deadlines**: both notices indicated that unless Petitioner submitted the issue and publication fees by March 1, 2007 and the corrected drawings by April 1, 2007, the present application would go abandoned. **Each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.**

Corrected drawings were received on March 31, 2007. No response to the first notice was received, and accordingly, the above-identified application became abandoned on March 2, 2007. A Notice of Abandonment was mailed on May 3, 2007.

A petition pursuant to 37 C.F.R. § 1.181 was filed on July 3, 2007, which was dismissed via the mailing of a decision on October 29, 2007.

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the present petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With this petition, Petitioner has submitted the petition fee and a statement that is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required. It is noted that the issue and publication fees were received on July 3, 2007.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

---

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

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FEB 20 2008

Ziolkowski Patent Solutions Group, SC
136 S. Wisconsin St.
Port Washington,WI 53074

In re Application of
Hoffman
Application No. 10/604,589
Patent No.: 7,167,539 B1
Filed: August 1, 2003
Attorney Docket GEMS8081.1777

: DECISION GRANTING PETITION

This decision is in response to applicants' "Petition for Patent Term Adjustment reconsideration Under 37 CFR 1.705(d)" timely[1] filed Feb. 23, 2007 requesting that the Office adjust the Patent Term Adjustment from a determination at the time of the issuance of the patent from 702 to 745 days.

The applicants' request for an adjustment is **GRANTED.** The Office will *sua sponte* issue a certificate of correction making the adjustment change from seven hundred and two (702)) days to (745) days. The Office will also change the PAIR determination to be consistent with this decision.

The patentees contest the reduction of patent term of sixty-four (64) days after the mailing of the notice of allowance for the submission of a 312 amendment. Patentees argue that the 312 amendment was for drawings and that the Office replied to such notice on December 11, 2006. Accordingly, patentees believe that the reduction pursuant to 37 CFR 1.704(c)(10) should be limited to 21 days not 64 days.

Patentees' arguments are persuasive. Patentees reduction should be limited to 21 days. The reduction began on November 21, 2006 the day of submission of the "312" amendment (i.e. drawing replacement) and ended on the date of reply to the amendment which was December 11, 2006. However, the Office assessed the reduction from November 21, 2006 until January 23, 2007, the date of issuance of the patent. Accordingly, the 64-day reduction after the mail date of the notice of allowance is in error. Overall, the correct amount of PTA at the time of the mailing of the issuance of the patent is 745 days.

Applicants have submitted the $200.00 fee. No additional fees are required to determined the application for patent term adjustment.

After the mailing of this decision, the Office will forward this application to the Certificate of Correction branch for a prompt issuance of the certificate of correction.

Any questions concerning this decision should be directed to Kery A. Fries, Office of Patent

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[1]Patent issued on January 23, 2007.

Legal Administration, Office of Deputy Commission of Patent Examination Policy, at 571-272-7757.

Kery Fries
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

PALM INTRANET

Day : Saturday
Date: 2/2/2008
Time: 13:37:19

PTA Calculations for Application: 10/604589			
Application Filing Date:	08/01/2003	PTO Delay (PTO):	766
Issue Date of Patent:	01/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	64
Post-Issue Petitions:	0	Total PTA (days):	745
PTO Delay Adjustment:	43		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	02/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
35.5	01/03/2007	PTA 36 MONTHS			
35	01/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
34	12/21/2006	EXPORT TO FINAL DATA CAPTURE			
33	12/13/2006	DISPATCH TO FDC			
32	12/11/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
31	12/07/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
30	11/10/2006	EXPORT TO INITIAL DATA CAPTURE			
29	11/21/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	32
28	11/27/2006	FINISHED INITIAL DATA CAPTURE			
27	11/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
26	11/21/2006	WORKFLOW - DRAWINGS FINISHED		64	32
25	11/21/2006	ISSUE FEE PAYMENT VERIFIED			
24	11/21/2006	ISSUE FEE PAYMENT RECEIVED			
23	11/06/2006	MAIL NOTICE OF ALLOWANCE	766		-1
22	11/06/2006	MAIL FORMAL DRAWINGS REQUIRED			
21	11/06/2006	MAIL EXAMINER'S AMENDMENT			
20	11/01/2006	ISSUE REVISION COMPLETED			
19	11/01/2006	FORMAL DRAWINGS REQUIRED			
18	11/01/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
17	11/01/2006	EXAMINER'S AMENDMENT COMMUNICATION			
16	10/27/2006	NOTICE OF ALLOWABILITY			
15	08/01/2003	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
14	10/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	10/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	08/01/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
11	08/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/21/2006	TRANSFER INQUIRY TO GAU			
9	09/19/2006	TRANSFER INQUIRY TO GAU			
8	05/01/2006	TRANSFER INQUIRY TO GAU			
7	04/18/2006	APPLICATION DISPATCHED FROM OIPE			
6	04/19/2006	APPLICATION IS NOW COMPLETE			
5	10/21/2003	CASE CLASSIFIED BY OIPE			
4	10/21/2003	CLEARED BY OIPE CSR			
3	08/01/2003	PGPUBS NONPUB REQUEST			
2	08/01/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,167,539 B1
DATED	:	Jan. 23, 2007
INVENTOR(S)	:	Hoffman

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 (702) days

Delete the phrase "by 702 days" and insert – by 745 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 506
MERRIFIELD VA 22116

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of
Hsieh, et al. :
Application No. 10/604,590 : DECISION ON
Filed: August 1, 2003 : PETITION
Attorney Docket No. ADTP0042USA :

This is in response to the petition to revive under 37 CFR 1.137(b), filed April 17, 2006.

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

The above-identified application became abandoned for failure to timely submit replacement drawings as required by the Notice of Allowability mailed on September 12, 2005. This notice set a non extendable period for reply of three months. No corrected drawings having been received, the above-identified application became abandoned on December 13, 2005. A Notice of Abandonment was mailed on January 20, 2006.

With the instant petition, petition paid the petition fee, submitted a replacement drawings, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 2721 for consideration of the replacement drawings filed April 17, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC SCHNEIDER
1730 SOUTH FEDERAL HWY
#104
DELRAY BEACH FL 33483

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:
Schneider	:
Application No. 10/604,598	:
Filed: August 1, 2003	: Decision On Petition
For: ACCRUAL SYSTEM, METHOD,	: To Make Special Under
PRODUCT, AND APPARATUS	: 37 CFR 1.02
Pub. No. US 2004/0111366 A1	:
Publication Date June 10, 2004	:

This is a decision on the petition under 37 CFR 1.102 and 37 CFR 1.181, received on August 18, 2004, to make the above-identified application special.

The petition is **GRANTED**.

Due to the publication of the above-identified application caused by the Office's improper processing of the application, the petition is granted.

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 3695 for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,603	08/04/2003	John Francis Baxter JR.	21901	1602

21901 7590 01/21/2004

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER, FL 33760

EXAMINER	

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 01/21/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 21 2004

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER FL 33760

In re Application of
John F. Baxter, Jr.
Serial No.: 10/604,603
Filed: August 4, 2003
Attorney Docket No.: 1135.31

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed September 11, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

John O dell (for)

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

AUG 24 2004

In re Application of:	:	
HUNG-MIN LIU et al.	:	
Serial No.: 10/604,611	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 05, 2003	:	FROM RECORD
Attorney Docket No.: **NAUP0520USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/24/06

TO SPE OF : ART UNIT **2635**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/604623 6982626

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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:

change to col. 6 line 22 conflicts with lines 21 and 23 only change necessary is in line 22 "then" should be "the". change to col. 6 line 33 conflicts with line 34. the word 'code' would be duplicated. Only change necessary is line 33 is to delete the word 'enabling'.

SPE — Art Unit 2635

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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MAR 11 2010

In re Patent No. 7,188,138	:	DECISION ON PETITION
Issue Date: March 3, 2007	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/604,626	:	AND REQUEST FOR
Filed: August 5, 2003	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 93766	:	

This is a decision on the petition, filed November 20, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to non-provisional Application No. 10/604,626, filed August 5, 2003, by way of a certificate of correction.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any non-provisional application claiming the benefit of one or more prior-filed copending non-provisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The

relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed non-provisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each non-provisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent non-provisional application. See MPEP Section 201.11, Reference to Prior Non-provisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

The amendment presented in the Certificate of Correction is unacceptable as presented because the present application was filed August 5, 2003 and application 09/683,491 became abandoned on May 4, 2003 for failure to respond to the final rejection of February 4, 2003, therefore the applications were not copending at the time the present application was filed. Further 09/532,350 does not claim benefit of 60/175, 825, 60/160,125 and 60/125,531.

As authorized, the $1,410 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's credit card.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the certificate of corrections must be submitted.

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

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

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 19 2004

In re Application of	:	
James Chyvan Moore et al.	:	
Serial No. 10/604,642	:	DECISION ON PETITION
Filed: August 6, 2003	:	TO MAKE SPECIAL
For: CASINO LOW BALL GAME AND METHOD OF DEALING CARDS THEREIN	:	

Applicant's petition, filed August 18, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Stephen C. Swift
Swift Law Office
1800 Diagonal Road, Suite 600
Alexandria, VA 22314-2840

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 092104

OCT 26 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
Ku0-Cheng Chen *et al.*	:	
Serial No.: 10/604,643	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 06, 2003	:	FROM RECORD
Attorney Docket No HTCP0011USA0	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 091404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 29 2004

In re Application of:
LIU *et al.*
Serial No.: 10/604,644
Filed: August 6, 2003
Attorney Docket No.: **AOIP0010USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Michael Brynn House et al :
Application No. 10/604,657 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 19441-0061 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 23, 2005.

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 payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
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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EDWARD YOO C/O BENNETT JONES
1000 ATCO CENTRE
10035 - 105 STREET
EDMONTON, ALBERTA AB T5J3T-2 CA CANADA

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of
Shirley DAINES
Application No. 10/604,658
Filed: August 7, 2003
Attorney Docket No. 45458.23

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 2005, 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 July 27, 2004, 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 28, 2004.

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 of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 27, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 3711 for appropriate action on the concurrently filed amendment.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN, LLP - PROTON
20 Church Street
22nd Floor
Hartford CT 06103

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Zagaja et al. :
Application No. 10/604,670 : DECISION ON PETITIONS
Filed: 08/08/2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. PES-0160 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further,

the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§ 1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed 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 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1795 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/604,670	08/08/2003	1795	588	PES-0160	29	4

CONFIRMATION NO. 1669

CORRECTED FILING RECEIPT

23462
CANTOR COLBURN, LLP - PROTON
20 Church Street
22nd Floor
Hartford, CT 06103

Date Mailed: 03/17/2008

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

Applicant(s)

John Zagaja, East Granby, CT;
Dave Christensen, Harwinton, CT;
Durwood Beringer, Windsor, CT;
Tushar Ghuwalewala, Wethersfield, CT;
Chris Capuano, Windsor Locks, CT;
Tony Hurtado, Guilford, CT;

Assignment For Published Patent Application

PROTON ENERGY SYSTEMS, INC., Wallingford, CT

Power of Attorney: The patent practitioners associated with Customer Number 23462

Domestic Priority data as claimed by applicant

This application is a CIP of 09/965,630 09/27/2001 PAT 7,166,382
which claims benefit of 60/235,743 09/27/2000
and claims benefit of 60/235,974 09/28/2000
and claims benefit of 60/235,821 09/27/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/604,670**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

ELECTROCHEMICAL CELL SUPPORT STRUCTURE

Preliminary Class

204

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAIL

OCT 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Chih-Sheng Chou et al.

Application No. 10/604,683
Filed: August 10, 2003
For: AUDIO AND DATA MULTIPLEXED WIRELESS AUDIO SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/604,684

Filed: 8/10/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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Paper No. 091404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
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Merrifield, VA 22116

OCT 14 2004

In re Application of:	:	
Tai *et al.*	:	
Serial No.: 10/604,685	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 11, 2003	:	FROM RECORD
Attorney Docket No.: **LKSP0018USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT 1 2004

In re Application of:
HAN-TU LIN *et al.*
Serial No.: 10/604,686
Filed: August 11, 2003
Attorney Docket No.: **ADTP0093USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 092104

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 30 2004

In re Application of:
Kun-chih Lin et al
Serial No.: 10/604,687
Filed: August 11, 2003
Attorney Docket No.: **ADTP0067USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself. There is at least thirty (30) days remaining 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.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward P. Westin at (571) 272-11638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of :
MAREN et al. :
Application No. 10/604,705 :
Filed: 08/12/2003 :
Attorney Docket No. 71903.00700UTL :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2007 to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on August 23, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on November 24, 2007.

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

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/604,720

Filed: 8/13/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Shan-Wen Chang, et al.	:	
Application No. 10/604,721	:	DECISION ON REQUEST TO
Filed: August 13, 2003	:	WITHDRAW AS ATTORNEY
For: IMAGE CAPTURING APPARATUS WITH A LASER-FRAMING VIEWFINDER	:	

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 18 2004

Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
HUNG-JEN WEI et al.	:	
Serial No.: 10/604,722	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 13, 2003	:	FROM RECORD
Attorney Docket No.: **ACMP0068USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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AUG 18 2004

Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
CHIEN-SHENG YANG	:	
Serial No.: 10/604,723	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 13, 2003	:	FROM RECORD
Attorney Docket No.: **ADTP0088USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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NAIPO (NORTH AMERICA INTERNATIONAL
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P.O. BOX 506
MERRIFIELD, VA 22116

MAILED
NOV 0 5 2004
Technology Center 2100

In re Application of:
Ying-Hao HSU, et al.
Application No. 10/604,746
Filed: August 14, 2003
For: AUDIO PLAYER WITH LYRICS DISPLAY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Mord Michael Lewis, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOVAK DRUCE & QUIGG LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jan Lundgren et al	:	
Application No. 10/604,758	:	DECISION ON PETITION
Filed: August 14, 2003	:	
Attorney Docket No. 07589.0048.NPUS01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2005, 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 15, 2004, 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 16, 2005. A Notice of Abandonment was mailed on July 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 15, 2004 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3726 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2005.

Frances Hicks
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

NOVAK DRUCE & QUIGG LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Jan Lundgren	:	
Application No. 10/604,760	:	DECISION GRANTING PETITION
Filed: August 14, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	
07589.0049.NPUS01		

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, 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 October 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 5, 2005. A Notice of Abandonment was mailed on June 15, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (an amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 4, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3726 for appropriate action in the normal course of business on the reply received January 3, 2006.

Frances Hicks
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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MAY 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. _10/604769

Filed: August 18, 2003

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, is not of record.

Accordingly, the Request to Withdraw as Attorney is **Denied**.

Mr. Winston Hsu and Scott Margo remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,780	08/15/2003	Jesse J. Williams	71189-1501	1779

20915 7590 09/22/2008

MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS, MI 49503

EXAMINER	
DOUYON, LORNA M	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
09/22/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

9-22-08

Mailed :
In re Application of
Lindsay M. Ulman et al.
Serial No. 10/604,780
Filed: August15, 2003
For: Manual Spray Cleaner

: DECISION ON
: PETITION

This is a decision on Applicants' request for reconsideration of Notice of Panel Decision from Pre-Appeal Brief Review mailed on July 16, 2008. The request is being considered as a PETITION FILED UNDER 37 CFR 1.181 (no fee).

On July 16, 2008 a Notice of Panel Decision from Pre- Appeal Brief Review was mailed out that stated that the request was improper because "Rule 132 Declarations and exhibits accompanied the Pre-Appeal Brief Request". Applicants' assert that the documents were not new filings but were simply part of the record. Applicants attached the documents in order to assist the panel in making its decision. Applicants request reconsideration of the decision.

A review of the records indicates that an Appeal Brief was filed on September 8. 2008.

DECISION

An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1205) has been filed. However, if the examiner charged with the responsibility of preparing the examiner's answer reaches a conclusion that the appeal should not go forward and the supervisory patent examiner (SPE) approves, then no appeal conference is necessary. In this case, the examiner may reopen prosecution and issue another Office action. See MPEP § 1207.04.

Accordingly, the petition is **DISMISSED** in view that an appeal conference will be conducted if the examiner in charge concludes that the appeal should go forward.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John E. McGarry
MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS MI 49503

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

MAR - 8 2004

In re Application of :
Carmen T. Reitano :
Serial No. 10/604,784 : DECISION ON PETITION
Filed: August 15, 2003 : TO MAKE SPECIAL
For: QUARTERING PILL SPLITTER :

Applicant's petition, filed September 25, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Mark P. White
White and Fudala
57 Bedford Street, Suite 103
Lexington, MA 02420

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Richard L. Bigelow, Esq.
203 Tremont Street
Newington, CT 06111

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Larry W. Collum, et. al. :
Application No. 10/604,787 : ON PETITION
Filed: August 17, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2007, to revive the above-identified application. The delay in responding is regretted.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 7, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on January 11, 2007, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Additionally, Office records show that petitioner submitted $795 for a four month extension of time on January 11, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $795 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/604,787	**Applicant(s)** COLLUM ET AL.	
	Examiner Stephen L. Blau	**Art Unit** 3711	

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

THE REPLY FILED 11 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on ___. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: ___. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ___.
6. ☐ Newly proposed or amended claim(s) ___would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ___.
   Claim(s) objected to: ___.
   Claim(s) rejected: ___.
   Claim(s) withdrawn from consideration: ___.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    ___.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). ___.
13. ☒ Other: See Continuation Sheet.

/Stephen L. Blau/
Primary Examiner, Art Unit 3711

Continuation of 13. Other: The amendment dated 11 January 2007 is not in compliance with the procedures required to amend an application as stated in article 714.II.C (Manual of Patenting Examiner Procedures). 1). There is not a status identifier for all the claims. Claims 4, 9 and 12 have no status identifier. It appears that they should have a status of (previoulsy amended). 2). Claim 8 has changes made from the last entered set of claims dated 9 April 2006 without the markings showing what was added or deleted. Claim 8 added the words --comprising a golf club head and a metallic shaft wherein-- and deleted the words "as described in claim 5 where" yet there are no strike throughs to show these deleted words or underlining showing the added words. 3). Claims 15-16 have an improper status identifiers. They should have the status identifier of "new" . Due to this being an after final amendment the clock continues to run from the Final Action mailed 7/7/06.

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Richard L. Bigelow, Esq.
203 Tremont Street
Newington, CT 06111

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Larry W. Collum, et. al. :
Application No. 10/604,787 : ON PETITION
Filed: August 17, 2003 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 10, 2008, to revive the above-identified application.

In response to the petition decision mailed October 8, 2008, petitioner submits the present renewed petition along with a Notice of Appeal and $270 fee. Since the petition fee of $750 and a proper statement of unintentional delay were previously submitted on April 10, 2007, the renewed petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 3711, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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P.O. BOX 506
MERRIFIELD VA 22116

MAIL

JUN 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Chien-Kuo Kuan, et al. :
Application No. 10/604,790 : DECISION ON REQUEST TO
Filed: August 17, 2003 : WITHDRAW AS ATTORNEY
For: SCANNING DEVICE HAVING REDUCED SCANNING TIMES AND METHOD RELATED THERETO :

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

BEST AVAILABLE COPY

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Glenn L. Webb
P.O. Box 951
Conifer CO 80433

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of
Williams et al.
Application No. 10/604,805
Filed: August 18, 2003
Attorney Docket No. hardpoint

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the "Petition For Unintentionally Delayed Benefit Claim," filed December 21, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3), 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 concurrently filed amendment.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant 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).

The petition lacks item (2) above.

In the instant petition, petitioner stated that the fee for the surcharge set forth in 37 CFR 1.17(t) was enclosed with the petition. Unfortunately, the Office did not receive the surcharge with the petition. Furthermore, petitioner did not submit an authorization to charge a Deposit Account for the required fee. Before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by the required surcharge set forth in 37 CFR 1.17(t).

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

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

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

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

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Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

AUG 16 2004

In re Application of:	:	
Shih-Hong Liao et al.	:	
Serial No.: 10/604,833	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 20, 2003	:	FROM RECORD
Attorney Docket No.: **ADTP0039USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Wahlstrom, et al. :
Application No. 10/604,848 : ON PETITION
Filed: August 21, 2003 :
Attorney Docket No. :
07589.0127.PCUS00

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed January 3, 2006

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 18, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on April 19, 2005. A Notice of Abandonment was mailed on August 23, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2837 for consideration of the Amendment filed January 3, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK DRUCE AND QUIGG LLP
(VOLVO)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Gert-Ove Wahlstrom et al	:	
Application No. 10/604,848	:	DECISION GRANTING PETITION
Filed: August 21, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7589.127.PCUS00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed October 24, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2837 to consider the reply received October 17, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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NOV 26 2004

In re Application of	:	
Randall A. Addington et al.	:	
Serial No. 10/604,853	:	DECISION ON PETITION
Filed: August 21, 2003	:	TO MAKE SPECIAL
For: BOWLER'S POSITIVE CONTROL:		
SYSTEM AND METHOD	:	

Applicant's petition, filed September 7, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Joel Rosenblatt
445 11th Avenue
Indialantic, FL 32903

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Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 15 2004

In re Application of:	:	
CHUAN-PEI YU et al.	:	
Serial No.: 10/604,854	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 21, 2003	:	FROM RECORD
Attorney Docket No.: **ADTP0097USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SEP 17 2004 Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
CHIEN-SHENG YANG	:	
Serial No.: 10/604,855	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 21, 2003	:	FROM RECORD
Attorney Docket No.: **ADTP0091USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

Clayton E. Laballe for

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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United States Patent and Trademark Office
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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Yu-Cheng Liu :
Application Number: 10/604,857 :
Patent: 6,811,662
Attorney Docket Number: 10683-US-PA :
Filing Date: August 22, 2003 :
Issue Date: November 2, 2004 : DECISION ON PETITION
:

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on July 1, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

The certificate of correction fee is $100.00 pursuant 37 CFR 1.20 (a). Deposit account no. 50-2620 will be charged the $100.00 fee.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/604,860

Filed: 8/22/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/604,862

Filed: 8/22/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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SCHNEIDER ELECTRIC / SQUARE D COMPANY
LEGAL DEPT. - I.P. GROUP (NP)
1415 S. ROSELLE ROAD
PALATINE, IL 60067

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MAY 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,102,251
Issue Date: September 5, 2006
Application No. 10/604,876
Filed: August 22, 2003
Attorney Docket No. VAN-0010-US-NP/247181-000

NOTICE

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.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Stephen G. Rudisill appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Rudisill desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Rudisill, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: STEPHEN RUDISILL
NIXON PEABODY LLP
300 S. RIVERSIDE PLAZA
16TH FLOOR
CHICAGO, IL 60606

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RIGDON PATENTS & ENGINEERING, PC
213 PARADISE MARSH CIRCLE
BRUNSWICK GA 31525

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth A. Mertz, Jr.	:	DECISION ON PETITION TO
Application No. 10/604,880	:	WITHDRAW HOLDING OF
Filed: 23 August, 2003	:	ABANDONMENT
Attorney Docket No. MER.0101	:	

This is a decision on the petition filed on 25 April, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 26 August, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 April, 2005.

Petitioner asserts that the Office action mailed on 26 August, 2005, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive 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 action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent attorney Jonathan R. Smith, asserts that a search of the file jacket and docket records indicates that the Office action was not received. Additionally, a copy of the docket report where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

As petitioner has filed a response to the Office action with the present petition, remailing of the Office action is not required. Rather, the response filed with the present petition will be considered to be timely filed.

The application file is being referred to Technology Center Art Unit 3652 for consideration of the reply filed with the present petition.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6945550	2005-09-20	10/604,893	2003-08-25	10.18.03.USP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tracy M Heims 53010/	Date (YYYY-MM-DD)	2010-06-10
Name	Tracy M Heims	Registration Number	53010

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6945550
Issue Date: September 20,2005
Application No. 10604893
Filed: August 25,2003
Attorney Docket No. 10.18.03.USP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 090704

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT - 5 2004

In re Application of:
CHANG *et al.*
Serial No.: 10/604,894
Filed: August 25, 2003
Attorney Docket No.: **ACMP0025USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 092104

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 30 2004

In re Application of:	:	
Jen-Yi Hu *et al.*	:	
Serial No.: 10/604,896	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 25, 2003	:	FROM RECORD
Attorney Docket No.: **ADTP0089USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed MAY 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward P. Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Mord Michael Lewis
NAUOI (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

MAILED

JUN 23 2004

Director's Office
Group 3700

In re Application of
The-Liang Lo
Application number 10/604 916

Filed: August 26, 2003

DECISION ON PETITION REGARDING WITHDRAWAL OF ATTORNEY

For: MULTIPLE-SETTING PORTABLE DRYER AND CIRCUIT

Counsel Mord Michael Lewis has filed a petition on May 18, 2004, seeking to withdraw from prosecution in this application. The petition is GRANTED.

As noted by counsel, this withdrawal is for Mord Michael Lewis only. All other attorneys remain of record. The correspondence address will not be changed.

WITHDRAW GRANTED

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 6/21/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATINAL
PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of
Yen-Cheng Chen, et al.
Application No. 10/604,919
Filed: May 18, 2003
For:
SCANNING COPIER WITH MULTIPLE SELECTABLE PRINTERS

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Mord Michael Lewis have been withdrawn for the record.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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JOHN A. ARTZ
ARTZ & ARTZ, P.C.
28333 TELEGRAPH ROAD, SUITE 250
SOUTHFIELD, MI 48034

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OFFICE OF PETITIONS

In re Application of	:	
Schmidt et al.	:	
Application No. 10/604,938	:	ON PETITION
Filed: August 27, 2003	:	
Attorney Docket No. LC 0135 PUS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 23, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 24, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
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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STMICROELECTRONICS, INC
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/21/2010

Applicant	: Razak Hossain	: DECISION ON REQUEST FOR
Patent Number	: 7571402	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/604,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **898** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FURR LAW FIRM
2622 DEBOLT ROAD
UTICA, OH 43080

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In re Application of :
Robert O'Kane :
Application No. 10/604,974 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No. 001-205 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 30, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed October 4, 2007. A Notice of Abandonment was mailed on April 14, 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 to the claims, specification, abstract and one sheet of drawings; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2623 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Tracy W. Druce
Novak, Druce & Quigg, LLP
1615 L Street, NW
Suite 850
Washington, DC 20036

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OFFICE OF PETITIONS

In re Application of :
BERTILSSON :
Application No.: 10/604,998 :
Filed: August 29, 2003 :
Attorney Docket No.: 07589.0130.PCUS00 :

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed May 04, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained as indicated by the Notice of Abandonment mailed February 7, 2005. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on August 5, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed May 04, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of May 04, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 3747.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of :
Bert-Inge Bertilsson :
Application No. 10/604,998 : DECISION ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 7589.130.PCU00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 28, 2006.

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 $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3747 for appropriate action by the Examiner in the normal course of business on the reply received September 5, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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NORTH AMERICA INTERNATIONAL
PATENT OFFICE (NAIPC)
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of :
Jen-Yu Hsu et al. :
Application No. 10/605,008 : DECISION ON REQUEST TO
Filed: September 1, 2003 : WITHDRAW AS ATTORNEY
For: METHOD FOR PROCESSING ERROR CONTROL FOR A SEEKING SERVO OF AN OPTICAL DISK DRIVE :

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Mord Michael Lewis is not of record. Accordingly, the request is **DISMISSED**.

All future communications from the Office will be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2004

Paper No. 100104

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
HSIEH-SHENG et al.	:	
Serial No.: 10/605,029	:	DECISION ON REQUEST TO WITHDRAW
Filed: September 03, 2003	:	FROM RECORD
Attorney Docket No.: **ACMP0031USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent Mord Michael Lewis requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NAIPO (North America International Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Yung-Chun LEI, et al.
Application No. 10/605,030
Filed: September 3, 2003
For: SYSTEM AND METHOD FOR UPDATING FIRMWARE IN A NON-VOLATILE MEMORY WITHOUT USING A PROCESSOR

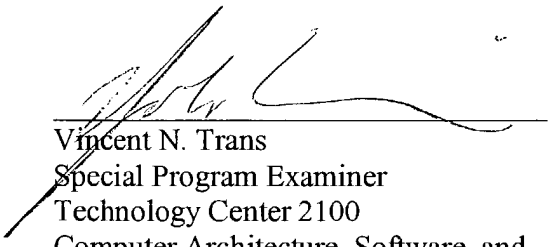
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070503

DATE : May 3, 2007

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 7034244

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

All corrections approved, no scope of Invention changed.

SPE: Robin Evans **Art Unit** 3742

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OFFICE OF PETITIONS

WILHELM A. HABERKORN
4 PAINTED BUNTING LANE
SAVANNAH GA 31411

In re Application of	:	
Wilhelm Andreas Haberkorn	:	
Application No. 10/605,040	:	DECISION GRANTING PETITION
Filed: September 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance And Fee(s) Due of August 16, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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APR 27 2004

In re Application of	:	
Conrad R. Schudel	:	
Serial No. 10/605,046	:	DECISION ON PETITION
Filed: September 3, 2003	:	TO MAKE SPECIAL
For: REPLACEABLE GOLF CLUB FACE AND PROTECTIVE SHIELD:	:	

Applicant's petition, filed September 3, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Greenberg and Lieberman
314 Philadelphia Avenue
Takoma Park, MD 20912

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U.S. Army TACOM-ARDEC
ATTN: AMSTRA-AR-GCL
BLDG 3
Picatinny Arsenal, NJ 07806-5000

In re Application of
Leon Manole et al
Application No. 10/605,057
Filed: September 5, 2003
For: SLEEVE FOR STRUCTURALLY SUPPORTING A PENETRATOR OF A KINETIC ENERGY PROJECTILE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 17, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☒ USPTO return facsimile receipt dated April 22, 2004 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Restriction/Election Response filed with the petition, then to the examiner for prompt action on the response.

RAR/jwk: 3/8/05

Randolph A. Reese
Special Programs Examiner
Group 3600

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The Dalina Law Group, P.C.
7910 Ivanhoe Ave. #325
La Jolla, Ca. 92037

Applicant: Kollegian, Et al.
Appl. No.: 10/605,072
Filing Date: September 5, 2003
Title: MULTI-STEP STORAGE APPARATUS FOR ADAPTABLY HOLDING DISCS AND DISC STORAGE DEVICES
Attorney Docket No.: DD-P0008
Pub. No.: US 2004/0104185 A1
Pub. Date: June 3, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on June 11, 2004 for the above-identified application.

The request is granted.

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

Shelby Littman, for

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

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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,075

Filed: 9/7/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,094

Filed: 9/8/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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BIRCH STEWART KOLASCH & BIRCH LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH VA 22315

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OFFICE OF PETITIONS

In re Patent No. 7,209,747 :
Issue Date: April 24, 2007 :
Application No. 10/605,121 : DECISION ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. 5413-0179PUS01 :

This is a decision on the "RENEWED REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322", filed September 10, 2007.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of

Howard Andrew Gutowitz

Application No. 10/605,157

Filed: September 11, 2003

Attorney Docket No. 2003,001/TS

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed November 2, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on February 1, 2007. An Advisory Action mailed February 20, 2007, advised that the response of February 1, 2007, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on February 3, 2007.

The Request for Continued Examination filed August 1, 2007, is noted.

The request fro an extension of time within the third month filed August 1, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The amount of $510.00 will be refunded to deposit account 50-0605, in due course.

The application file is being forwarded to Technology Center 2100, GAU 2182 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,166

Filed: 9/12/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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

FORD GLOBAL TECHNOLOGIES, LLC
ONE PARKLANE BLVD, SUIE 600 PTE
DEARBORN, MI 48126

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Lim Wijaya et al	:	
Application No. 10/605,182	:	DECISION GRANTING PETITION
Filed: September 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 81083198/202-1080	:	

This is a decision on the petition, filed December 27, 2004, 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 November 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3749 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

HOWREY SIMON ARNOLD & WHITE LLP
2941 FAIRVIEW PARK DR, BOX 7
FALLS CHURCH, VA 22042

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of:
Horton et al.
Application No. 10/605,188
Filed: September 12, 2003
Title of Invention: REMEDIATION TREATMENT OF SUSTAINED CASING PRESSURES (SCP) IN WELLS WITH TOP DOWN SURFACE INJECTION OF FLUIDS AND ADDITIVES

ON PETITION

This is in response to the Petition Under 37 CFR 1.47(a) For Acceptance of Application Where Joint Inventor Refuses to Join in Application For Patent (Filed Concurrently With Response to Missing Parts), filed June 30, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, John Powell, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. JOHN POWELL
THE WHITNEY
60 POYDRAS STREET
NEW ORLEANS, LA 70130

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of:
Horton et al.
Application No. 10/605,188
Filed: September 12, 2003
Title of Invention: REMEDIATION TREATMENT OF SUSTAINED CASING PRESSURES (SCP) IN WELLS WITH TOP DOWN SURFACE INJECTION OF FLUIDS AND ADDITIVES

LETTER

Dear Mr. Powell:

You are named as an 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(b), 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 (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: HOWREY SIMON ARNOLD & WHITE LLP
2941 FAIRVIEW PARK DR, BOX 7
FALLS CHURCH, VA 22042

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 2 9 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
William Mar, et al.
Application No. 10/605,193
Filed: September 14, 2003
For: METHOD AND RELATED APPARATUS FOR LOCKING PHASE WITH ESTIMATED RATE MODIFIED BY RATE DITEHRING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Mord Michael Lewis, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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IPX CORPORATION
PO BOX 24103
SEATTLE, WA 98124-0103

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of Graulich :
Application No. 10/605,207 : Decision on Petition
Filing Date: August 29, 2005 :
For: Motorcycle Saddle Locking Device :

This is a decision on the petition filed August 29, 2005, to accord the above-identified application a filing date of September 15, 2003.

The petition is **dismissed**.

The application was transmitted to the PTO on September 15, 2003.

On July 18, 2005, the Office of Initial Patent Examination mailed a Notice stating that a specification and claims were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the missing items. The Notice also stated the declaration which had been filed was unsigned.

In response, the present petition was filed alleging that the missing items were filed as part of the application on September 15, 2003.

Petitioner states the following items were electronically filed on September 15, 2003:

(1) 21 pages of specification including 1 page abstract, 2 pages claims, and 2 pages "Parts List,"
(2) 13 sheets of drawings, and
(3) an electronically signed declaration.

Overview of the Electronic Filing Submission Process:

Certain applications can be filed electronically using PTO provided EFS-ABX software/templates.

When the EFS file is created, all the information is put into XML (eXtensible Markup Language) that can be processed by USPTO. The specification, claims, abstract, and drawings are also put

into the PDF format (Portable Document Format). Some papers, such as drawings, must be filed as TIFF images.[1]

EFS-ABX allows the user, at any time during the authoring process, to validate the application document to assure that all text is properly formatted, all required headings have been inserted, and images conform to size and format restrictions. Currently the official copies of all USPTO electronic application files are the electronic images of the EFS submission entered into the Office's IFW files. The document images stored in the Office's IFW system are the official records used during prosecution. The PDF version from EFS-ABX will be used to create the image version of the specification (description), drawings, claims and abstract. The PDF files are the source documents for the official records in the Image File Wrapper system (IFW) of the specification, claims, abstract and drawings. It is important to review the PDF files to verify that they contain the same information as was entered into the Word source application file. The Word source document file is never transmitted to the USPTO, and cannot be relied upon as evidence of the contents of the application as filed.

Once the application files are properly formatted, validated and viewed, EFS-ABX exports the document as a set of both XML and PDF files. These files are compressed and password protected so they cannot be altered without re-entering EFS-ABX.

The user then employs the submission software ePAVE (electronic packaging and validation engine) to attach the compressed and password protected EFS-ABX file package, complete common data elements and required forms, attach any desired external files (e.g. oath or sequence listing), apply an electronic signature to the application, encrypt the signed application, and electronically transmit the application in XML and PDF to the USPTO.

An electronic Acknowledgement Receipt including the Application Number and a Confirmation Number are produced and sent securely to the applicant as proof of a successful submission. The Acknowledgement Receipt also lists the files received by the USPTO with the name and the size of each file. The Acknowledgement Receipt serves as an "Electronic Post Card" and is assurance to the applicant in the event evidence of filing is ever needed.

An Acknowledgment Receipt may appear, in part, as follows:

Doc. Name	File Name	Size (Bytes)	Date Produced (yyyymmdd)
application-body	image1.tif	90,000	yyyymmdd
application-body	image2.tif	110,911	yyyymmdd

[1] TIFF requirements apply to the following types of images:

(1) Inline graphics (including complex chemical structures, math equations, tables, and custom characters). EFS-ABX automatically produces images that meet the requirements when the XML documents are exported.
(2) Drawings (figures) – It is recommended that one Figure of drawing be included in each tiff file. EFS-ABX automatically produces images that meet the requirements when the XML documents are exported.
(3) Declaration forms (These may also be submitted as XML files if they are created in ePAVE.)
(4) Assignment documents
(5) Small entity statements
(6) Power of Attorney forms (These may also be submitted as XML files if they are created in ePAVE.)

application-body	image3.tif	101,405	yyyymmdd
abstract-pdf	name-abst.pdf	9,500	yyyymmdd
claims-pdf	name-clms.pdf	8,647	yyyymmdd
description-pdf	name-desc.pdf	20,567	yyyymmdd
drawings-pdf	name-draw.pdf	210,543	yyyymmdd
us-declaration	name.tif	60,434	yyyymmdd

The word "name" in the chart indicates a name chosen by applicant and may differ between file names.

The acknowledgment receipt contains a code which can be used to verify the contents of the application should an applicant allege a portion of the application was misplaced. An applicant, via filing a petition, can submit a paper version and electronic version (on floppy disk or CD-R) of the files as submitted. The code can be used to verify the electronic version of the application submitted with the petition is or is not identical to the electronic application originally filed.

Due to the automated process involved in filing and processing EFS applications, an applicant can "see" and review their submission over the Internet using the Private PAIR (Patent Application Information Retrieval) system a short time after submission, allowing applicant significant reassurance of successful receipt.

Analysis:

The PDF files are the source documents for the official records in the Image File Wrapper system (IFW) of the specification, claims, abstract and drawings. Each sheet of drawing would be expected to have a corresponding TIFF file. However, the Electronic Acknowledgment Receipt fails to list any PDF files or any TIFF files. A review of the Acknowledgment Receipt fails to indicate the missing papers were filed with the application.

Since the application will be assigned a filing date of August 29, 2005, the Office need not determine if the electronic declaration was signed or unsigned since the declaration filed on August 29, 2005, can simply be entered in the file with no harm to petitioner.

All the evidence present in the file has been carefully considered, but is not persuasive that the missing items were submitted with the original application.

If petitioner disagrees with the instant decision, petitioner may submit a copy of the electronic version of the papers as filed. The electronic copy should be a copy of the files after they were compressed and password protected. The electronic copy of the application files may be filed on a floppy disk or CD-R. The following code on the Acknowledgment Receipt can be used to verify the new electronic copy is identical to the copy filed on September 15, 2003:

Code: 4a42ae73a0f2fdd4918a9a09c8297722f6df1f0b

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time

under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53." This is **not** 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 facsimile: (571) 273-8300
Attn: Office of Petitions

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may assign the application a filing date of August 29, 2005, using the papers filed September 15, 2003, *and* the papers filed August 29, 2005.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

JUN 2 8 2005

In re Application of: VITANTONIO et al
Application No. 10/605210
Filed: 09/15/2003
Attorney Docket No. **19427/04260**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR δ 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR δ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed 06/06/2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

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.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Marc L. Vitantonio, et al. :
Application No. 10/605,210 : ON PETITION
Filed: September 15, 2003 :
Attorney Docket No.: 19427/04260 :

This is a decision on the petition, filed May 24, 2006, 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 March 20, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2851 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice 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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100 CHESTNUT STREET
2000 HSBC PLAZA
ROCHESTER NY 14604-2404

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Starr, et al. : DECISION ON PETITION
Application No. 10/605,222 :
Filed: September 16, 2003 :
Atty. Dkt. No.: 3023824 US01 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 18, 2007.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned April 27, 2007 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed January 26, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed May 24, 2007.

Petitioners argue that the Supplemental Notice of Allowability, mailed March 22, 2007, set a three month period of time for submission of the issue fee. Petitioners further argue that the Supplemental Notice of Allowability superceded the Notice mailed January 26, 2007. Petitioners also assert that the issue fee has been timely submitted within three months of the mail date of the Supplemental Notice of Allowability.

Petitioners' arguments have been carefully considered, but are not found convincing. The Supplemental Notice of Allowability did not "supercede" the Notice of Allowance and Issue Fee Due mailed January 26, 2007. There is no indication in the record that the Office withdrew the Notice of Allowance and Issue Fee Due. There is also no indication in the record that the Office

issued a Supplemental Notice of Allowance and Issue Fee Due setting forth a new period of time for submission of the issue fee.

The Supplemental Notice of Allowability indicated as follows: "If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course."

The Notice of Allowance had been "previously mailed" on January 26, 2007. The Notice of Allowance and Issue Fee Due set a three month statutory period of time for reply, making the issue fee due on nor before April 26, 2007.

The Supplemental Notice of Allowability further stated "Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE."

The requirements noted in the Supplemental Notice of Allowability concerned the submission of corrected drawings. While the Supplemental Notice of Allowability did set a new period of time for submission of the corrected drawings, it did not set a new period of time for submission of the issue fee.

The application became abandoned as a matter of law for failure to timely submit the issue fee within the time period set by the Notice of Allowance and Issue Fee Due. *See*, 35 USC 133. Failure to submit the issue fee within the required time period is not grounds for withdrawal of the holding of abandonment.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the entire delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition Randolph Building Dulany Street Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ROCHESTER NY 14604-2404

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Starr, et al. :
Application No. 10/605,222 : DECISION ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 3023824 US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 27, 2007 for failure to timely submit a proper reply to the Notice of Allowance and Fee(s) Due (Notice) mailed January 26, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed May 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the Notice, (2) the required petition; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for further processing, including review of the drawings submitted April 20, 2007.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Stephen J. Brown
Application No. 10/605,223 : DECISION ON REQUEST
Filed: September 16, 2003 : FOR WITHDRAWAL OF
For: REPORT GENERATION IN A NETWORKED HEALTH-MONITORING SYSTEM : ATTORNEY

This is a decision on the request filed on October 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this request is sincerely regretted.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A) and C) above.

As to condition (A), the attorneys listed as being withdrawn in Customer No. 08791 do not match the appointed. Therefore, some attorneys originally appointed would still be of record if the request were approved. It does not appear that is the intent of the request. If only certain attorneys are withdrawing, then it must be so stated.

As to condition (C), it is not clear how the discontinuation of the attorney client relationship occurred. (The attorneys may not discontinue on their own accord).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/29/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DEC 0 3 2004

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Stephen J. Brown
Application No. 10/605,226 :
Filed: September 16, 2003 :
For: MESSAGING TO REMOTE PATIENTS :
IN A NETWORKED HEALTH-MONITORING
SYSTEM

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on October 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of November 05, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 28 2005

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

In re application of
Stephen J. Brown
Application No. 10/605,228 : DECISION ON REQUEST
Filed: September 16, 2003 : FOR WITHDRAWAL OF
For: PATIENT CONTROLLED OF HEALTH- : ATTORNEY
RELATED DATA IN A REMOTE PATIENT
MONITORING SYSTEM

This is a decision on the renewed request filed on October 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this request is sincerely regretted.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed April 08, 2005

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 06/16/05

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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FROM DIRECTORS OFFICE

DEC 0 7 2004

TECHNOLOGY CENTER 3600

Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of :
Stephen Brown :
Application No. 10/605,229 : DECISION ON REQUEST
Filed: September 16, 2003 : FOR WITHDRAWAL OF
For: NETWORKED REMOTE PATIENT : ATTORNEY
MONITORING WITH HANDHELD :
DEVICES

This is a decision on the request filed on October 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

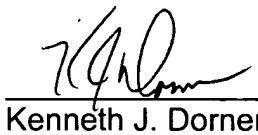
Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A) and C) above.

As to condition (A), the attorneys listed in the request do not correspond to those listed in the Power of Attorney (Appendix A) filed February 23, 2004. If only the attorneys listed in the request are to have power withdrawn and those not listed is intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise those attorneys not listed would need to be added to the request.

As to condition (C), it is not clear how the discontinuation of the attorney client relationship occurred. (The attorneys may not discontinue on their own accord).



Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/29/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/21/2010

Applicant	: John W. Northcutt	: DECISION ON REQUEST FOR
Patent Number	: 7613472	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/605,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
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SEP 21 2007

OFFICE OF PETITIONS

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SURAR LAND TX 77478

In re Application of :
Stephane J. Virally et al :
Application No. 10/605,248 : ON PETITION
Filed: September 17, 2003 :
Attorney Docket No. 19.0285 :

This is a decision on the petition filed April 30, 2007, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition filed September 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) 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 the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

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

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

Petitioner is advised that the issue fee paid 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]

[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).

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

The application is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,250

Filed: 9/17/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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

November 16, 2009

Winston Hsu
P.O. Box 506
Merrifield, VA 22116

Patent No: 7,283,680 B2
Application No.: 10/605,250
Applicant: Tzu-Hung Cheng, et al.
Issued: October 16, 2007
Title: **METHOD FOR IMAGE PROCESSING BY UNSHARP MASKING**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

The error complained of in your request cannot be corrected since: It is the practice of the office to use the recommended presentation abbreviated form as a priority application number, according to the WIPO Handbook on Industrial Property Information and Documentation.

In view of the foregoing, your request in these matters is hereby **denied.**

Future correspondence concerning this matter should be directed to Decisions & Certificates of Correction Branch.

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of :
Nylen et al. : DECISION ON PETITION
Application No. 10/605,256 :
Filed: September 18, 2003 :
Atty Docket No. 07589.0053. :
NPUS01 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed September 19, 2007. This also responds to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 5, 2007.

The petition under § 1.181 is **DISMISSED**.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 19, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective August 20, 2005. A courtesy Notice of Abandonment was mailed on February 28, 2006.

A status letter was filed on July 19, 2006, mentioning a previously filed petition to revive. However, no such petition to revive is of record. More than a year later, applicants filed the instant petition to withdraw the holding of abandonment. Applicants assert that a proper response to the Office letter was received by the USPTO on December 27, 2005 and that the response was timely mailed on Monday, November 21, 2005. In support thereof, applicants submit a copy of the transmittal form, with the certificate of mailing statement and the petition of extension of time filed therewith. Applicants note that all of these items are present in PAIR.

It is noted that the response, including an extension of time, is present in the application with a date of receipt of December 27, 2005. Further, a review of the transmittal identifying all of the items being filed, including the extension of time, had a certificate of mailing signed and dated November 21, 2005. However, the paper was not received in the Office until December 27, 2005. Moreover, the certificate of mailing was signed and dated by a "Daniel Hernandez." Yet, the petition does not include a statement from Daniel Hernandez attesting on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission, as required by 37 CFR 1.8(b)(3). There needs to be a showing that Mr. Hernandez had a reasonable basis to expect that the correspondence would be mailed or transmitted on or before November 21, 2005.

Under the circumstances withdrawal of the holding of abandonment based on 37 CFR 1.8(b) is not warranted.

Petitioner has met the requirements for revival of the application under 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment, payment of the petition fee and the required statement of unintentional delay. Further, the facts and circumstances set forth on the petitions and the fact of the status inquiry filed July 19, 2006, support a conclusion that the entire delay was unintentional within the meaning of 37 CFR 1.137(b).

Technology Center AU 3742 has been advised of this decision. The application file is forwarded to the Technology Center for consideration by the examiner of the amendment submitted on petition filed October 5, 2007.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS MI 49503

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OFFICE OF PETITIONS

In re Patent No. 7,523,534 :
Issued: April 28, 2009 :
Application No. 10/605,263 : ON PETITION
Filed: September 18, 2003 :
Attorney Docket Number: 70254-0397 :

This is a decision on the petition, filed August 19, 2009, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee was incorrectly identified 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 name of the assignee on the front 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.

---

[1] *See* Official Gazette of June 22, 2004

A request for a certification of correction was filed July 31, 2009 and was dismissed in a decision mailed August 7, 2009 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

Office assignment records reflect that DART CONTAINER CORPORATION 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 issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUN - 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SEYFARTH SHAW
55 EAST MONROE STREET
SUITE 4200
CHICAGO IL 60603-5803

In re Application of
Stanley M. Josephson
Application No. 10/605,278
Filed: September 19, 2003
For: **SYSTEM AND METHOD FOR COMMINGLED REMITTANCE PAYMENT PROCESSING**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed September 19, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a declaration and copy of a birth certificate for Mr. Stanley M. Josephson evidencing that he is over 65 years of age.

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 is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,118,138 :
Issue Date: October 10, 2006 :
Application No. 10/605,279 : NOTICE
Filed: September 19, 2003 :
Attorney Docket No. 203671.00049 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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JUL 26 2005

OFFICE OF PETITIONS

Applicant: Ho et al.
Appl. No.: 10/605,305
Filing Date: September 22, 2003
U.S. Patent No.: 6,916,687
Issue Date: January 4, 2005
Title: BUMP PROCESS FOR FLIP CHIP PACKAGE
Attorney Docket No.: 10665-US-PA
Pub. No.: US 2004/0241911 A1
Pub. Date: December 2, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on April 27, 2005 for the above-identified application.

The instant request identifies errors in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,916,687, the request is deemed moot.

The request is DISMISSED as moot.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Brooks Kushman P.C./FGTL
1000 Town Center
22nd Floor
Southfield, MI 48075-1238

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Supina et al. :
Application No. 10/605,315 : DECISION ON PETITION
Filed: September 22, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 81044241/201-1453 :

This is a decision on the petition, filed April 14, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 10, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 20, 2009 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3618 for examination in due course.

/CHARLEMA GRANT/

Charlema Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/605,315	09/22/2003	Joseph G. Supina	81044241/201-1453

CONFIRMATION NO. 2314

28395
BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238

NONPUBLICATION RESCISSION LETTER

Date Mailed: 05/11/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/20/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/crgrant/

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

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

NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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In re Application of :
Michael JOHANSSON et al. :
Application No. 10/605,318 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. :
07589.0129.PCUS00

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 14, 2005 with a Certificate of Transmission/Mailing of November 09, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 15, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1540; and (3) a proper statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 2858 for processing and for appropriate action by the Examiner in the normal course of business.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,227,688 B2
Serial No. : 10/605,319
Inventor(s) : Grier et al.
Issued : January 7, 2007
Title : **APPARATUS FOR APPLYING OPTICAL GRADIENT FORCES**
Docket No. : **12962.0008.DVUS01**

Re: Request for Reconsideration

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 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.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA VA 22182-2683

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOVAK DRUCE & QUIGG LLP
1300 EYE ST NW
400 EAST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Preijert, et al. :
Application No. 10/605,340 : ON PETITION
Filed: September 23, 2003 :
Attorney Docket No. :
00173.0038.PCUS00

This is a decision on the petition filed on February 6, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Office action mailed on January 10, 2005, which set a shortened period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on February 11, 2005. A Notice of Abandonment was mailed on September 13, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3617 for consideration of the Amendment, filed February 6, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DYKEMA GOSSETT PLLC
2723 SOUTH STATE STREET
SUITE 400
ANN ARBOR MI 48104

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Gregory A. Kaepp et al. :
Application No. 10/605,341 : ON PETITION
Filed: September 23, 2003 :
Attorney Docket No. 201-0904CIP-81091467 :

This is a decision on the petition filed July 19, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 15, 2005 for failure to timely pay the issue fee on or before July 14, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee in the amount of $1400, petition fee in the amount of $1500 and publication fee in the amount of $300 have been charged to deposit account no. 06-1510.

With respect to the address, 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

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

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

(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 application will be mailed solely to the address of record.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division for processing into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
GIGETTE M. BEJIN
FORD GLOBAL TECHNOLOGIES, LLC
ONE PARKLANE BLVD.
SUITE 600
DEARBORN, MI 48126

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BC

Mailed: Paper Number: 062104

In re application of	:	
Nidal A. Samad	:	DECISION ON
Serial No. 10/605,342	:	PETITION
Filed: September 23, 2003	:	
For: DOMESTIC WASTEWATER TREATMENT SYSTEM	:	

This is a Decision of the petition filed on November 19, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Blaine R. Copenheaver, Jr.
SPE, Group Art Unit 1724
Chemical and Materials Engineering

ANTON J. HOPEN
SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER FL 33760

Pet. Dec.

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JUL - 1 2004

VP
PAPER NO. ___

In re Application of
Nidal A. Samad
Serial Number: 10/605,342
Filed: September 23, 2003
For: DOMESTIC WASTEWATER TREATMENT SYSTEM

PETITION UNDER
M.P.E.P.708.02 V

This is in response to the petition filed November 24, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

William A. Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER FL 33760

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,941,878	2005-09-13	10/605,384	2003-09-26	03-RIC-02

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/LOUIS VENTRE JR/	Date (YYYY-MM-DD)	2009-10-29
Name	Louis Ventre, Jr.	Registration Number	46254

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6941878
Issue Date: September 13,2005
Application No. 10605384
Filed: September 26,2003
Attorney Docket No. 03-RIC-02

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 29,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 29,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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APR 16 2004

OFFICE OF PETITIONS

In re Application of :
Chii-Chang Chen et al. :
Application No. 10/605,400 :
Filed: February 12, 2004 : DECISION ON PETITION
Attorney Docket No. :
11142-US-PA :
Title: BEAMSPLITTER UTILIZING A :
PERIODIC DIELECTRIC STRUCTURE :

This is a decision on the petition filed February 12, 2004, in which Petitioner requests the later filing date for the above-identified application.

On September 29, 2003, the above-identified application was deposited. On December 17, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 1A-1D appeared to have been omitted. The Notice set a two-month period for response.

On February 12, 2004, Petitioner submitted a response, along with Figures 1A-1D and payment of the petition fee. Based on Petitioner's statement of the resolution which he seeks, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawings as the filing date.

However, it is noted that Petitioner submitted this petition via facsimile transmission. As is set forth in 37 C.F.R. §1.6(d)(4) which has been reproduced below), drawings cannot be submitted via facsimile transmission.

37 C.F.R. §1.6 sets forth, in part:

d) Facsimile transmission. Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3). To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the Patent and Trademark Office. The application number of a patent or trademark application, the control number of a reexamination proceeding, the interference number of an interference proceeding, the patent number of a patent, or the registration number of a trademark should be entered as a part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:

(1) Correspondence as specified in § 1.4(e), requiring an original signature;

(2) Certified documents as specified in § 1.4(f);

(3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D) and (F), § 1.8(a)(2)(ii)(A), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;

(4) Drawings submitted under §§ 1.81, 1.83 through 1.85, 1.152, 1.165, 1.174, 1.437, 2.51, 2.52, or 2.72;

§ 1.81 Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flowsheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

[43 FR 4015, Jan. 31, 1978; para. (a), 53 FR 47809, Nov. 28, 1988, effective Jan. 1, 1989]

(emphasis added)

As such, the petition must be **DISMISSED**.

Any response 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 response should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

The renewed petition may be submitted by mail[1] or hand-delivery.[2]

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. Please note that the delivery process within the PTO can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Chii-Chang Chen et al.	:	
Application No. 10/605,400	:	
Filed: February 17, 2004	:	DECISION ON RENEWED
Attorney Docket No.	:	PETITION
11142-US-PA	:	
Title: BEAMSPLITTER UTILIZING A	:	
PERIODIC DIELECTRIC STRUCTURE	:	

This is a decision on the renewed petition filed April 27, 2004, in which Petitioner requests the later filing date for the above-identified application.

On September 29, 2003, the above-identified application was deposited. On December 17, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 1A-1D appeared to have been omitted. The Notice set a two-month period for response.

On February 12, 2004, Petitioner submitted a response, along with Figures 1A-1D and payment of the petition fee. Based on Petitioner's statement of the resolution which he seeks, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawings as the filing date.

The original petition was received on February 17, 2004, and was dismissed via the mailing of a decision on April 16, 2004.

With the renewed petition, it has been made clear that the drawings were received in the Office via facsimile transmission

on February 12, 2004, and a second copy was subsequently received by mail on February 17, 2004.

As such, the renewed petition is **GRANTED**.

After the mailing of this decision, the application will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 17, 2004, using the drawings submitted on that date as well as the papers originally submitted on September 29, 2003. OIPE will then mail a filing receipt indicating that the application has been accorded a filing date of February 17, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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

Paper No. None

JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Chii-Chang Chen et al.	:	
Application No. 10/605,400	:	
Filed: February 17, 2004	:	DECISION ON SECOND
Attorney Docket No.	:	RENEWED PETITION
11142-US-PA	:	UNDER 37 C.F.R.§1.182
Title: BEAMSPLITTER UTILIZING A	:	
PERIODIC DIELECTRIC STRUCTURE	:	

This is a decision on the second renewed petition filed June 3, 2004, in which Petitioner requests that the decision of May 6, 2004 be vacated and the earlier filing date be accorded to the above-identified application.

On September 29, 2003, the above-identified application was deposited. On December 17, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 1A-1D appeared to have been omitted. The Notice set a two-month period for response.

On February 12, 2004, Petitioner submitted a response, along with Figures 1A-1D and payment of the petition fee. Based on Petitioner's statement of the resolution which she sought, it was clear that Petitioner accepted the date of deposit of the formerly omitted drawings as the filing date.

The original petition was received on February 17, 2004, and was dismissed via the mailing of a decision on April 16, 2004.

With the renewed petition, filed April 27, 2004, it was made clear that the drawings were received in the Office via facsimile transmission on February 12, 2004, and a second copy was subsequently received by mail on February 17, 2004. As such, the renewed petition was granted, and the application was accorded a filing date of February 17, 2004, using the drawings submitted on that date as well as the papers submitted on September 29, 2003.

With this second renewed petition, Petitioner has set forth that she has changed her mind, and now wants the earlier filing date. Petitioner has set forth that she wishes to delete the omitted items, "Figures 1B - 1D" (petition, page 1, emphasis added).

Petitioner's request cannot be granted. The notice of December 17, 2003 clearly sets forth that Figures 1A - 1D were omitted. If the Office were to grant this second renewed petition, accord the filing date of September 29, 2003, and delete Figures 1B - 1D, the Office would be according a filing date of September 29, 2003 to Figure 1A, which was not received in the Office until February 17, 2004. Clearly, this figure is not entitled to a filing date of September 29, 2003.

As such, the second renewed petition is **DISMISSED**.

Any reply 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 reply should include a cover letter entitled "Third Renewed Petition Under 37 C.F.R. 1.182". This is not a final agency action within the meaning of 5 U.S.C §704. If the earlier filing date is what Petitioner seeks, she should request that Figures 1A - 1D not be entered. Petitioner cannot have the earlier filing date assigned to a figure which was not present at that time.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
3 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

LOTT & FRIEDLAND, P.A.
ONE EAST BROWARD BOULEVARD
SUITE 1069
FORT LAUDERDALE, FL 33301

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of :
Derek Wayne Cornelius et al. :
Application No. 10/605,406 : DECISION ON PETITION
Filed: September 29, 2003 : TO WITHDRAW
Attorney Docket No. 03176-1-001000 : 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 **APPROVED**.

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

The request was signed by Michael J. Keller on behalf of all attorneys/agents associated with customer number 35996. All attorneys/agents associated with customer number 35996 have been withdrawn.

Applicant is advised that there is no attorney of record.

The correspondence address has been changed to that of the assignee of the application and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gary L. Haynes
Creative Compounds, LLC
1704 Main Street
Scott City, MO 63780

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/605,406	09/29/2003	Derek Wayne Cornelius	03176-1-001000

CONFIRMATION NO. 2405

35996
LOTT & FRIEDLAND, P.A.
ONE EAST BROWARD BLVD.
SUITE 1609
FORT LAUDERDALE, FL 33301

POA ACCEPTANCE LETTER

OC000000025367773

Date Mailed: 08/15/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/02/2007.

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

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

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

2-10-05

In re Application of
Harry H. Davallou
Serial Number: 10/605,409
Filed: September 9, 2003
For: TOES AND CALLUS CLEANER

ap

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed October 25, 2004 requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP.

The petition has been considered and found to be deficient. for the following reason: Section 708.02 VIII(c) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. Our review shows that Class 15, Subclasses 104.92, 210.1, Class 4, Subclass 606 and Class 601 Subclasses 136 and 138 should be searched.

Accordingly, the petition is **DENIED**.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Harry H Davallou
PO Box 2431
La Jolla CA 92038

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

SEP - 1 2005

In re Application of	:	
Harry H. Davallou	:	DECISION
Serial No. 10/605,409	:	ON
Filed: September 9, 2003	:	PETITION
For: TOE AND CALLUS CLEANER	:	UNDER 708.02,VIII

This is in response to the request for reconsideration of the petition decision, mailed February 10, 2005, denying the request for special status in the above-identified application. This request is considered a renewed petition to make special.

The original petition, filed October 25, 2004, was evaluated under the conditions set forth in Section 708.02 VIII of the MPEP which specifies that the required pre-examination search must be directed to the invention as claimed. In the petition decision mailed February 10, 2005, the pre-examination search provided in the original petition was found to be incomplete for the invention as claimed and the petition was denied. The instant request indicates the additional areas, outlined in the February 10, 2005 decision, have now been searched. As such, the pre-examination requirements have been met and the previous decision is hereby withdrawn.

Accordingly, the petition is **GRANTED.**

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

AUG 24 2004

In re Application of:
CHIH-WEI HUNG et al.
Serial No.: 10/605,419
Filed: September 30, 2003
Attorney Docket No.: **LKSP0020USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Hui-Jan Chien	:	DECISION ON PETITION
Application No. 10/605,422	:	TO WITHDRAW
Filed: September 30, 2003	:	FROM RECORD
Attorney Docket No. ACMP0129USA	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2004.

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

It is noted that in the declaration which filed on September 30, 2003, applicant appointed Customer No. 27765 as his representative in matters pertaining to the prosecution of the above-identified application. However, More Michael Lewis's patent agent No. 50478 is not associated with Customer No. 27765. Since More Michael Lewis was not giving a power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center AU 2624.

Amelia Au
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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DEC 14 2004

OFFICE OF PETITIONS

Applicant: Finklestein et al.
Appl. No.: 10/605,456
Filing Date: September 30, 2003
Title: PROMOTING RECOVERY FROM DAMAGE TO THE CENTRAL NERVOUS SYSTEM
Pub. No.: US 2004/0105847 A1
Pub. Date: June 3, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 4, 2004, 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 republishes.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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JUN 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of :
Ming-Huang Kuo, et al. :
Application No. 10/605,463 : DECISION ON REQUEST TO
Filed: September 30, 2003 : WITHDRAW AS ATTORNEY
For: METHOD FOR RESTORING FADED :
PHOTOGRAPHS AND FILM :

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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DYKEMA GOSSETT PLLC
2723 SOUTH STATE STREET
SUITE 400
ANN ARBOR, MI 48104

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Woojin Kim et al :
Application No. 10/605,472 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No. 65271-027 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed August 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 19, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 04-2223 was charged a total of $3,200.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee, and $300.00 for the publication fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-24-06

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/605484 Patent No.: 6884065

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

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

Check claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Changes do not affect the scope of the invention

Greg Wilson

2/29/07

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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~~MAR 10 2006~~ VOID

MAR 13 2006

MARINA L. LARSON
OPPEDAHL ANd LARSON LLP
P.O. BOX 5068
DILLON, CO 80435-5068

In re Application of	:
Martin Gleave et al	:
Serial No.: 10/605,498	:
Filed: 02 October 2003	:
Attorney Docket No.: UBC.P-031	:

This letter is in response to the Petition under 37 C.F.R. 1.144, filed 29 January 2006 requesting review of the Ex parte Quayle action mailed 30 November 2005 and the restriction requirement requiring election of a single sequence among SEQ ID NOS.: 1 - 93 as originally set forth in the communication mailed to applicants on 23 March 2005.

BACKGROUND

This application was filed on October 2, 2003, under 35 U.S.C. 111, and contained claims 1-24. On March 23, 2005 the examiner mailed to applicants a restriction requirement wherein the 24 claims were divided into two groups--methods of treating cancer (claims 1 - 13) and pharmaceutical compositions (claims 14 - 24). In this same communication the examiner required further restriction among SEQ ID NOS. 1 - 90 because these sequences represented an improper Markush group since unity of invention was lacking.

On 20 April 2005 applicants responded to the restriction requirement by electing without traverse the pharmaceutical compositions of Group II, claims 14 - 24. New claims 25 - 28 were also added at this time. Applicants elected SEQ ID NO. 82 for initial examination. No traversal of the requirement was set forth.

On 12 May 2005 the examiner mailed to applicants a first Action on the merits in which claims 14 - 17, 19 and 25 - 28 were all rejected. Claims 14 - 17 and 25 and 26 were rejected under 35 U.S.C. 112, first paragraph, for lack of adequate written description and claims 14 - 17, 19, and

25 - 28 were also rejected under 35 U.S.C. 102 and 103(a) as being anticipated and/or obvious over various references.

Applicants replied on 11 August 2005, amending claim 14 and responding to the rejections appropriately

On 07 September 2005 the examiner mailed to applicants a FINAL rejection in which all pending claims 14 - 17, 19, and 25 - 28 were rejected over prior art under 35 U.S.C. 102(b) and/or 103(a). The restriction requirement became final at this time also.

On 17 October 2005 applicants and the examiner held a telephone interview and discussed amending the claims to recite "**the** consecutive series" rather than "**a** consecutive series" as well as a stringency requirement in order to overcome the 102 rejections of record.

On 26 October 2005 applicants filed an After Final amendment in which claim 14 was amended to be a Markush group of SEQ ID NOS. 1 - 90. New claims 29 - 43 were also added at this time.

On 10 November 2005 the examiner mailed to applicants an Advisory Action wherein it was noted that applicants had amended claims to recite sequences that were not previously examined. It was noted that applicants had previously elected antisense SEQ ID NO. 82. The examiner further noted that if this amendment were entered, the additional sequences would be subject to a restriction requirement.

On 30 November 2005 in a telephone interview with the examiner, applicants expressed their position that the amendment filed 26 October 2005 should be entered because these sequences were present in the original claims. The examiner agreed to enter the amendment filed 26 October 2005 but also indicated that these reintroduced sequences would be withdrawn from examination because they are directed to non-elected inventions.

On 30 November 2005 the examiner mailed to applicants an *Ex parte Quayle* action indicating that the application was in condition for allowance except for formal matters. A complete reply to this action was required to include cancellation of the non-elected claims or other appropriate action (37 C.F.R. 1.144).

On 29 January 2006 applicants filed a second After Final amendment to correct minor typographical errors and requested reconsideration and further examination for all pending claims.

On 29 January 2006 applicants also filed this Petition under 37 C.F.R. 1.144 requesting review of the restriction requirement and the requirement of election of a single sequence for examination as set forth in the communication mailed 23 March 2005.

DISCUSSION

The above file history has been thoroughly reviewed and considered.

It is important to note that applicants did not traverse any part of the restriction requirement mailed 23 March 2005. Applicants were under the impression that the election of SEQ ID NO. 82 was effectively an election of species requirement rather than a true restriction requirement. Applicants state, "This election was made without traverse with the understanding that it was a species-type election, and that the generic claims and other species would be recombined and considered in the absence of prior art." However, the examiner clearly stated that the she was requiring an additional restriction among the 90 SEQ ID NOS because the listing of SEQ ID NOS. was considered an improper Markush group.

Applicants' argument has been fully considered but is not deemed persuasive.
Although each of the 90 antisense sequences target and modulate the expression of the same gene, the instant antisense sequences are considered to be unrelated to each other, since each antisense sequence has a unique nucleotide sequence, each antisense targets a different and specific region of hsp27, and each antisense, upon binding to hsp27, functionally modulates the expression of the gene to a different degree. Furthermore, a search of more than one of the antisense sequences claimed presents an undue burden on the Office due to the complex nature of the search and corresponding examination of more than one of the claimed antisense sequences.

Applicants point out that during prosecution the examiner has considered generic claims to hsp27 oligonucleotide antisense generally and to any antisense targeted to hsp27, i.e., SEQ ID NO. 91. The examiner has also considered the specific sequence of SEQ ID NO. 82. Applicants further argue that the examiner has not identified a single reference which discloses an antisense oligonucleotide targeted to hsp27, thus suggesting the allowability of the generic claim to the treatment of cancer with any antisense oligonucleotide to SEQ ID NO. 91. Therefore, applicants cannot understand how there could be an undue burden on the examiner to search and examine methods for treating cancer using any of the 90 SEQ ID NOS. in the claims.

Applicants' argument has been fully considered and is deemed persuasive. Since claim 14 was originally a generic or linking claim, and if this generic or linking is allowable, then the claims depending from said the linking claim should be rejoined and fully examined.

Finally, applicants emphasize that the restriction of the method claims to a single SEQ ID NOS. appears arbitrary because it appears that the examiner has not even considered that SEQ ID NOS. 81 and 82 differ only by a single base. Similarly, SEQ ID NOS. 79 and 80 also differ by only a single base. Applicants' argument has been fully considered and is deemed persuasive in part. Since SEQ ID NO. 81 is identical to SEQ ID NO. 82 except for one extra base, the search of SEQ ID NO. 82 should also have been adequate as a search for SEQ ID NO. 81 since they are 95% identical. The examiner's sequence search indicates that there was no sequence found that was more than 65% identical to SEQ ID NO. 82. Therefore, this would lead to the conclusion that SEQ ID NO. 81 is allowable over the prior art.

DECISION

For the above reasons, the Petition, requesting withdrawal of the restriction requirement among SEQ ID NOS 1 - 90 is **GRANTED-IN-PART**.

This case will be returned to the examiner for examination of compositions comprising SEQ ID NO. 81 since this differs from the elected SEQ ID NO. 82 by a single base and because the search of SEQ ID NO. 82 should have been an adequate search for SEQ ID NO. 81 as well. In addition, the examiner will permit entry of the amendment adding back a generic or linking claim as in the original claim 14. If the examiner finds this generic or linking claim to be allowable, then all of the claims depending from this generic or linking claims will, of necessity, be rejoined and examined fully.

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

Should there by any questions regarding this decision, please contact Special Program Examiner, William R. Dixon, Jr. by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

OIPE JC199
MAY 18 2004
PATENT & TRADEMARK OFFICE

ltw

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Chu-Jung Shih Gwo-Long Lin I-Min Lu	Examiner:	
Filing Date:	2003/10/2	Art Unit:	
App. No.:	10/605,499	Docket No.:	TOPP0012USA0

Title:
METHOD OF FORMING A LIQUID CRYSTAL DISPLAY

To: Assistant Commissioner for Patents
P.O.BOX 1450
Alexandria, VA 22313-1450

Subject: Request for withdrawal as agent

Approved 1-3-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

Dear Sir or Madame:

I hereby apply to withdraw as agent for the above identified patent/patent application. The reason for this request is that I am leaving my current office of employment to attend law school.

Although I am requesting to withdraw from the above patent/patent application, Winston Hsu, agent registration No. 41,526, will continue to serve as the primary agent of record for this case. **This request for withdraw *does not affect* the status of Mr. Hsu as the principle agent of record for the above-identified case.** Consequently, the correspondence address is **NOT** affected by this withdrawal. Furthermore, as Mr. Hsu will continue acting as the agent of record, my withdrawing from this case will not affect the client's ability to obtain timely representation. Mr. Hsu, as my employer, has agreed to my withdrawal and will continue handling all aspects of this case. I therefore believe in good faith that the USPTO should find this request for withdrawal acceptable.

Sincerely yours,

Mord Michael Lewis

Date: 7/18/2003

Mord Michael Lewis, Patent Agent No.50,478

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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AUG 24 2004

Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
HAO-FENG HUNG
Serial No.: 10/605,501
Filed: October 03, 2003
Attorney Docket No.: **ACMP0130USA0**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
CHIEN-CHIH HUANG et al.	:	
Serial No.: 10/605,503	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 03, 2003	:	FROM RECORD
Attorney Docket No.: **ACMP0120USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JOSEPH J. MAYO
DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA, CA 92037

MAILED
NOV 19 2004
Technology Center 2100

In re Application of: Lowe
Application No. 10/605,527
Filed: October 6, 2003
For: METHOD AND APPARATUS FOR GENERATING AND DISTRIBUTING PERSONALIZED MEDIA CLIPS

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

This is a response to the petition filed October 9, 2004, 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 **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

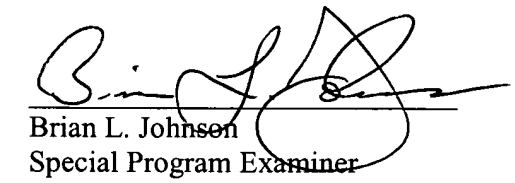
(e) **Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.**

The petition filed October 9, 2004 fails to adequately meet requirements (b), (d) and (e) of the criteria set forth above. With respect to requirement (b), Petitioners fail to indicate that if the Office determines that all of the claims presented are not obviously directed to a single invention, an election will be made without traverse **as a prerequisite** to the grant of special status. Such statement is missing from the instant petition and required for the grant of special status. With respect to requirement (d), the petition fails to provide identification in the form of listing of all references deemed to be most closely related to the subject matter encompassed by the claims. Specifically, petitioner has failed to provide a listing as set forth in M.P.E.P. 609 and 37 CFR §1.98 (e.g. PTO form 1449). With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above. Reference is made to independent claim 54.

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 Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 11/15/04

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JOSEPH J. MAYO
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MAILED

MAR 12 2005

Technology Center 2100

In re Application of: Lowe
Application No. 10/605,527
Filed: October 6, 2003
For: METHOD AND APPARATUS FOR GENERATING AND DISTRIBUTING PERSONALIZED MEDIA CLIPS

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

This is a decision on the Request for Reconsideration filed January 18, 2004 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on October 9, 2004.

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);

(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.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition and indicated to have been submitted, have not been listed on an attached PTO form 1449 or PTO/SB/08 (or such listing has not reached the file). To ensure proper consideration, a listing of these references should be provided.

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

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

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

BLJ: 3/3/05

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Mailed: 1-3-06

In re application of :
Stein et al. : DECISION ON
Serial No. 10/605,546 : PETITION
Filed: October 7, 2003 :
For: METHOD AND APPARATUS TO ADAPTIVELY COOL A WELDING-TYPE SYSTEM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 19, 2005.

On March 22, 2005, a non-final office action was mailed to applicants rejecting all of the claims over various prior art references. Among the rejections was a rejection under 35 USC 102 (b) over French Patent 2,536,320 which was cited by Applicants in an IDS. In the rejection, the examiner referred to a translated abstract, the specification and the figures. Applicants responded to the office action on May 16, 2005. In the response, it was argued that the reliance upon an abstract is improper and it was requested that the examiner provide a translation and rely upon the entire French document in any subsequent rejections. In response, the examiner prepared a final office action repeating the same rejections and provided Applicants with a translation of the French document. Applicants requested the withdrawal of the finality of the office action on August 2, 2005 by way of a telephone message left with the examiner.

On September 22, 2005 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the July 19, 2005 office action.

Applicants position for the withdrawal of the finality is that no clear issue as been established between the examiner and applicants prior to the final rejection.

DECISION

Section 706.07 of the MPEP states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that it is not proper to maintain a rejection that was based in whole or in part on a non-English language document and make such an action final.

Throughout the petition, Petitioner refers to Section 2271 of the MPEP. This section is not applicable to the instant situation in that it is directed to the Citation of Prior art in Patents and Reexamination Proceedings. These proceedings are quite different than Ex Parte prosecution of pending applications. It is noted on the bottom of page 2 in the instant petition, that Petitioner has cited references to the Patent Owner. Once again, this is quite different than an applicant for a pending patent. While in a Reexamination proceeding it is required to give the Patent Owner references and information twice, there is no patent owner present in the instant proceedings.

Additionally, Petitioner refers to Section 706.02 of the MPEP which concerns foreign documents. This section merely requires the examiner to obtain a translation of the document. The section is silent as to when this must occur. In fact, Section 901.05(d) states in part:

> 901.05(d) [R-3] Translation
> Examiners may consult the translators in the *>Translations< Branch of the Scientific and Technical Information Center (STIC) for oral assistance in translating foreign patents or literature that are possible references for an application being examined. Examiners may also request written translations of pertinent portions of references being considered for citation or already cited in applications. See MPEP § 901.06(a), STIC Services - Translations, and MPEP § 903.03, Availability of Foreign Patents.
> **Examiners may request written translations at any point in the examination process, at the discretion of the individual examiner, but are encouraged to use oral assistance and/or language reference resources as much as possible in the early phases of examination.** (emphasis added)

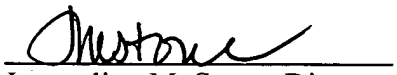
This clearly allows for examiners to obtain written translations at any point in the examination process. Oral translations are encouraged due to the tremendous burden that would be placed upon the Translation branch if all foreign language documents that are used in prosecution were submitted for translation. Along those same lines, if Petitioner's position was correct that no foreign language document could properly be used in a rejection unless a translation was obtained, then current pendency in the office would grow to tremendously unacceptable levels. In the instant case, the examiner relied upon an English language abstract, a partial oral translation and the figures of the reference to support the position of the rejection. It is also noted that the French document in question was cited and submitted to the office so it is logical to assume that Applicants were at least somewhat familiar with the document in question. After the non-final office action was sent, applicants had the opportunity to respond to these positions but merely elected to argue that the examiner improperly rejected the claims over an abstract and that said abstract did not meet the claims. In this case, the arguments were not applicable because it was clear from the statement of rejection that the examiner was relying on the actual French document for the basis of the rejection, with the abstract cited to merely support in part his position that the reference met the claimed limitations.

The question of finality comes down to whether the examiner introduced a new ground of rejection in the final office action. In this case, the rejection did not change. The claims were rejected over the same statute and the same piece of prior art. As to whether a clear issue was developed, the examiner's position and reasoning did not change from one action to the next. He

relied upon the same teachings of the French document. The fact that a translation was obtained merely supports and confirms the position initially taken by the examiner. As to whether a clear issue has been established, the examiner's position did not change from the non-final office action to the final office action. The fact that Applicants did not argue the teachings of the French reference as set forth by the examiner in the non-final office action does not change the fact that the examiner has clearly established the position taken by the office.

Accordingly, the finality of the July 19, 2005 office action was proper and the petition is **DENIED.**

Applicant's time for response to the July 19, 2005 office action continues to run as set forth in the office action.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Jennifer B. Owens	: DECISION ON REQUEST FOR
Patent Number	: 7593859	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/605,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1585** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Jennifer B. Owens
Patent Number : 7593859
Issue Date : 09/22/2009
Application No: 10/605,551
Filed : 10/08/2003

: 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 **1628** 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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CONNOLLY BOVE LODGE & HUTZ, LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

MAILED

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OFFICE OF PETITIONS

In re Patent No. 6,906,589 :
Issue Date: June 14, 2005 :
Application No. 10/605,571 : NOTICE
Filed: October 9, 2003 :
Patentee(s): Takeshi Ikeda, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on December 24, 2008.

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**. Therefore, status as a small entity has been removed and all future fees paid must be submitted at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Cantor Colburn LLP - IBM Endicott
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Edward E. Kelley	: DECISION ON REQUEST FOR
Patent Number	: 7610340	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/605,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 - IBM Endicott
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 05/17/2010

Applicant : Edward E. Kelley
Patent Number : 7610340
Issue Date : 10/27/2009
Application No: 10/605,572
Filed : 10/09/2003

: 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 **1076** 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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CANTOR COLBURN, LLP
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Hartford CT 06103

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OFFICE OF PETITIONS

In re Application of	:	
Edward E. Kelley et al.	:	
Application No. 10/605,573	:	DECISION GRANTING PETITION
Filed: October 9, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FIS920030293	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 25, 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 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2154 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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DEC 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,870,211	:	
Issue Date: March 22, 2005	:	
Application No. 10/605,590	:	ON PETITION
Filed: October 10, 2003	:	
Patentee(s): Rama Divakaruni, et. al.	:	

This is a decision on the petition filed by facsimile transmission on October 7, 2005, which is being treated as a request under 37 CFR 3.81[1], to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Hulten et al.	:	DECISION
Application No. 10/605,598	:	ON PETITION
Filed : October 10, 2003	:	
Attorney Docket Number:	:	
00173.0043.PCUS00	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed FEBRUARY 6, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed December 10, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 15, 2005. A Notice of Abandonment was mailed June 14, 2005.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 3683 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Hulten et al.	:	DECISION
Application No. 10/605,598	:	ON PETITION
Filed : October 10, 2003	:	
Attorney Docket Number:	:	
00173.0043.PCUS00	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed FEBRUARY 6, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed December 10, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 15, 2005. A Notice of Abandonment was mailed June 14, 2005.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 3683 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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AUG 24 2004

Paper No. 080404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
YU-YUAN CHEN	:	
Serial No.: 10/605,612	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 14, 2003	:	FROM RECORD
Attorney Docket No.: **ACMP0036USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

2-10-05

In re Application of	:	ap
Perry Gartner	:	DECISION
Serial No. 10/605,619	:	ON
Filed: October 14, 2003	:	PETITION
For: SWIVEL PAD PAINTER	:	UNDER 708.02,VIII

This is in response to the petition filed December 22, 2004, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 15, Subclasses 209.1, 144.1 and 144.2.

Accordingly, the petition is **DENIED.**

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

RICHARD A. JOEL ESQ.
496 KINDERKAMACK ROAD
ORADELL NJ 07649

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MAR 21 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	
Applicant:	Perry Gartner
Serial Number:	10/605,619
Filing Date:	10/14/2003
Invention:	SWIVEL PAD PAINTER

Examiner: CHIN, R.
Art Group: 1744

STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL

HON. COMMISSIONER OF PATENTS & TRADEMARKS
Washington, D.C. 20231

Dear Sir:

1. In reply to the Decision on Petition Under 708.02, VIII, petitioner has made careful and thorough search of the prior art

2. A further search of Class 15, Subclasses 209.1, 144.1 and 1442. revealed the following prior art patents:

US-3,795,393 to Seufert
US-4,727,618 to Mahoney
US-4,424,603 to Balint, et al
US-4,517,700 to Pinto
US-4,763,377 to Madsen
US-4,819,294 to Calvert
US-5,556,470 to Gruber

3. In light of the foregoing, petitioner respectfully requests that the petition be reexamined and the decision reversed.

Respectfully submitted,

RICHARD A. JOEL
496 Kinderkamack Road
Oradell, NJ 07649
(201) 599-0588
Reg. No. 22212

Dated: March 21, 2005

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

APR - 4 2005

PAGE 3/3 * RCVD AT 3/21/2005 3:20:00 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,637	10/15/2003	Petter Larsson	7589.068.NPUS01	2636

65858 7590 05/19/2008
NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

EXAMINER	
NGUYEN, CUONG H	

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
05/19/2008	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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FIFTY-THIRD FLOOR
HOUSTON TX 77002

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FROM DIRECTORS OFFICE

MAY 16 2008

TECHNOLOGY CENTER 3600

In re Application of
LARSSON, Petter et al.
Application No. 10/605,637
Filed: October 15, 2003
For: **METHOD AND ARRANGEMENT FOR INTERPRETING A SUBJECTS HEAD AND EYE ACTIVITY**

DECISION ON PETITION TO EXPUNGE FILED UNDER 37 CFR §1.59

This is a decision on the petition under 37 CFR 1.59(b), filed October 29, 2003, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document identified as item A1, entitled "Review of European Human Factors Research on Adaptive Interface Technologies for Automobiles", submitted in the Information Disclosure Statement and attached PTO-1449 dated October 20, 2003 be expunged from the record.

Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Accordingly, the image of the information in question has been expunged from the Official file. However, applicants are required to retain the expunged material for the life of any patent which issues on the above-identified application.

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

Any questions regarding this letter should be directed to Supervisory Patent Examiner Thomas Black at (571) 272-6956.

Donald Hajec, Director
Patent Technology Center 3600
(571) 272-5150

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 2 9 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Li-Chun TU, et al.
Application No. 10/605,646
Filed: October 15, 2003
For: METHOD FOR INCREASING MEMORY
IN A PROCESSOR

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Mord Michael Lewis, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

MAIL

JUN 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Hui-Jan Chien, et al. :
Application No. 10/605,649 : DECISION ON REQUEST TO
Filed: October 15, 2003 : WITHDRAW AS ATTORNEY
For: METHOD OF ADJUSTING HALFTONE :
IMAGE DOT POSITIONS FOR IMPROVING :
PRINT QUALITY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/Agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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Paper No. 091404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 29 2004

In re Application of:	:	
Yu *et al.*	:	
Serial No.: 10/605,653	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 15, 2003	:	
Attorney Docket No.: **AUOP0022USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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RON LANE
2 KAKIAT LANE
SPRING VALLEY NY 10977

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Ronald S. LANE :
Application No. 10/605,663 : DECISION ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 22, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). **Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). The petition is not accompanied by the required reply.** Accordingly, the application became abandoned on February 23, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that

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

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance.

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

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

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

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

Telephone inquiries concerning this decision should be directed to 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
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RON LANE
2 KAKIAT LANE
SPRING VALLEY NY 10977

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AUG 2 1 2009

OFFICE OF PETITIONS

In re Application of :
Ronald S. LANE :
Application No. 10/605,663 :
Filed: October 16, 2003 :
Attorney Docket No. :

CORRECTED
DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2008, to revive the above-identified application.

The decision mailed July 20, 2009 is hereby **VACATED**.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 22, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Inquiry with examiner, Gwendolyn Baxter, indicates that the amendment places the case in condition for allowance. Accordingly, the reply to the final Office action of September 22, 2005 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3632 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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MOORE & VAN ALLEN, PLLC
2200 W. MAIN STREET
SUITE 800
DURHAM, NC 27705

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OFFICE OF PETITIONS

In re Application of :
Donald A. Cooke et al :
Application No. 10/605,668 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. 012720.61

This is a decision on the petition, filed August 10, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 16, 2004 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]

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 should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2839 for processing of the request for

[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).

continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Michael J. Bell
Howrey, Simon, Arnold & White LLP
Box No. 34
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT : 3651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/605670 Patent No.: 7090067

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

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

Please check cols. CoC

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

Emmi Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER

3651

SPE Art Unit

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Paper No. 082504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT 1 2004

In re Application of:	:	
JOEY LAI et al.	:	
Serial No.: 10/605,681	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 17, 2003	:	FROM RECORD
Attorney Docket No.: **NAUP0513USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

Moore and Van Allen, PLLC
P.O. Box 13706
430 Davis Drive, Suite 500
Research Triangle Park, NC 27709

In re Application of:
Keith W. Anderson
Application No.: 10/605,686
Filed: October 17, 2003
Atty's Docket No.: U03-0052.47

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 06, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed June 05, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 05, 2006.

On September 06, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Pao-Ching TSENG, et al.
Application No. 10/605,716
Filed: October 21, 2003
For: PROCESSOR HAVING AN UNSHARED STACK MEMORY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Mord Michael Lewis, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Mailed MAY 18 2004

Paper No.

In re Application of	:	
David E. Clement et al.	:	
Serial Number: 10/605740	:	DECISION ON
Filed: October 22, 2003	:	PETITION UNDER
For: SOFT FLOOR SCRUBBER	:	M.P.E.P. 708.02,II

This is in response to the petition filed, March 23, 2004, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Chemical Engineering

KENEHAN & LAMBERTSEN, LTD
1771 E. FLAMINGO ROAD
SUITE 211-B
LAS VEGAS NV 89119-5154

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY 27 2004

In re Application of	:	
Richard S. Norek	:	
Serial No. 10/605,748	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO MAKE SPECIAL
For: DESERT BOOT OUTSOLE	:	

Applicant's petition, filed January 26, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Decker Law Office
1 New Hampshire Ave., Suite 125
Portsmouth, NH 03801

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MORGAN MALINO
UNITY SEMICONDUCTOR CORPORATION
250 NORTH WOLFE ROAD
SUNNYVALE, CA 94085

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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Wayne Kinney :
Application No. 10/605,757 :
Filed: October 23, 2003 :
Attorney Docket No. PO25.03.CIP2+ :

DECISION ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed August 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed May 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 27, 2005. No Notice of Abandonment was mailed to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($700) and publication fee ($300) at the time of filing the petition; (2) the petition fee of $750.00 (for a small entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed May 26, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JUN 2 9 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International
Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Yi-Chang CHEN, et al.
Application No. 10/605,762
Filed: October 24, 2003
For: METHOD FOR DYNAMICALLY BUILDING ACPI ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Mord Michael Lewis, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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COMMISSIONER FOR PATENTS
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DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

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MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
RODNUNSKY :
Application No.: 10/605,778 : DECISION ON PETITION
Filing Date: October 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: JR-P0004 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, 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 Allowance mailed June 21, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 21, 2006.

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 corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/27/06

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/605780 Patent No.: 6992885

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

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

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

G. DeCesare

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

LYNN FEILD
~~SUPERVISORY PATENT EXAMINER~~

SPE **Art Unit** 2835

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Li-Yi Chen et al	:	TO WITHDRAW
Application No. 10/605,791	:	FROM RECORD
Filed: October 27, 2003	:	
Attorney Docket No. CMOP0025USA	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2004.

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

It is noted that in the declaration which filed on March 1, 2004, applicants appointed Winston Hsu as their representative in matters pertaining to the prosecution of the above-identified application. However, Mord Michael Lewis was not giving power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center AU 2629.

Amelia Au
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

BRUCE E. HARANG
PO BOX 872735
VANCOUVER WA 98687-2735

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Kar Keong Low et al. :
Application No. 10/605,820 : ON PETITION
Filed: October 29, 2003 :
Attorney Docket No.: LEAR04048

This is a decision on the petition filed May 23, 2005 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 14, 2005, for failure to timely pay the issue fee on or before March 13, 2005. A response (the Issue Fee Transmittal) to the Notice of Allowance was filed December 20, 2004 however, the deposit account listed for payment of the fees was deficient. Thus, the application became abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The publication fee was previously paid and the payment of the issue fee and petition fee with the instant petition are hereby acknowledged.

This application is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAY 11 2004

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

In re Application of	:
James C. Kennedy et al.	:
Serial No.: 10/605,824	: PETITION TO MAKE SPECIAL
Filed: October 29, 2003	:
Attorney Docket No.: 067286/0276	:

This is in response to applicants' petition filed April 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 11 2004

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

In re Application of	:
James C. Kennedy et al.	:
Serial No.: 10/605,825	: PETITION TO MAKE SPECIAL
Filed: October 29, 2003	:
Attorney Docket No.: 067286/0277	:

This is in response to applicants' petition filed April 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MAY 11 2004

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

In re Application of	:
James C. Kennedy et al.	:
Serial No.: 10/605,826	: PETITION TO MAKE SPECIAL
Filed: October 29, 2003	:
Attorney Docket No.: 067286/0278	:

This is in response to applicants' petition filed April 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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JUN 02 2006

Director's Office
Group 3700

ERNEST A. BEUTLER, ATTORNEY AT LAW
10 RUE MARSEILLE
NEWPORT BEACH CA 92660

In re Application of: MASSOKA et al.
Appl. No.: 10/605,843
Filed: October 30, 2003
For: KICKBACK PREVENTING CIRCUIT FOR ENGINE

DECISION ON PETITION

This is a decision on the petition filed on October 14, 2005 by which petitioners request entry of the amendment submitted after final rejection September 29, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Review of the prosecution history shows that the examiner promulgated a final rejection on September 22, 2005. On September 29, 2005 petitioner submitted an amendment proposing to add a claim copied from US Patent 6,786,212 for the purpose of provoking interference. On October 10, 2005 the examiner promulgated an advisory action indicating the proposed amendment would not be entered as it at least raised a new issue. On October 14, 2005 petitioner filed a petition requesting supervisory review of the examiners decision in light of petitioner's arguments and relief in directing the entry of the copied claim into the application for the purpose of interference.

Petitioner supports his position by arguing a distinction between the filing of a claim in response to a final rejection as opposed to filing a claim intentioned to provoke an interference proceeding. Petitioner admits recognition of the interfering subject matter "shortly" after the filing of the amendment on March 20, 2005 but failed to present the copied claim until September 29, 2005. Petitioner opines the paper was marked that it was not intended to be a reply to the final Office action, and that it is not believed the Rules or Statute prohibit copying a claim for the purpose of interference after the issuance of a final rejection.

37 CFR 1.113 and 37 CFR 1.116 proscribe the requirements for filing of an amendment after final rejection. As is clearly outlined in MPEP 714.13, entry of claims after close of prosecution is not a matter of right. Amendments filed after final rejection are limited by 37 CFR 1.116. It is the combination of amendment timeliness and amendment content with respect to the status of prosecution that determines amendment entry after close of prosecution. Entry is not determined by the petitioner's intent. The proposed addition of a copied claim for interference clearly does

raise new issues in as much as all claims in an application must be fully examined. An applicant is not entitled to an interference proceeding just because a claim has been copied. A claim to conflicting subject matter must also be patentable to the applicant who copied the claim and such may only be determined by examination on the merits. See MPEP Chapter 2300. As such, the refusal of amendment entry by the examiner appears well within proper interpretation of the rules of practice. Therefore the refusal of entry of the September 29, 2005 amendment is not in error and no basis for granting the relief petitioner requests is apparent.

Finally, it is noted the copied claim submitted on September 29, 2005 included a "Request for Interference" submitted under 37 CFR 1.604. This rule was removed and restated in 37 CFR 41.202 on September 13, 2004. Even though the copied claim has not been entered after close of prosecution of the instant file, the date of filing of the copied claim does serve as an evidentiary consideration for the requirement of timely presentation of copied claims as is proscribed by 35 USC 135 (b)(1) for any possible future requests for interference should prosecution of the instant file be reopened or should a continuation application be filed by petitioner. Petitioner's attention is directed to MPEP 2304.02(c), section II (October 2005) in particular. Should petitioner have further questions, he is invited to contact TC 3700 SPRE/Interference Practice Specialist Jessica Harrison at 571-272-4449.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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ERNEST A. BEUTLER,
ATTORNEY AT LAW
10 RUE MARSEILLE
NEWPORT BEACH CA 92660

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Masaoka, et al. :
Application No. 10/605,843 : DECISION
Filed/Deposited: 30 October, 2003 :
Attorney Docket No. SIMTEK6701 :

This is a decision on the petition filed on 5 August, 2008, 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 under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

Petitioners' attentions always are drawn to the Commentary at MPEP §711.03(c).[1]

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[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

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

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

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

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz*

Petitioner seeks to provide the documentation in compliance with the Commentary at MPEP §711.03(c)(A) and/or (B) as it is set forth on the website (and included for reference herein).

BACKGROUND

The record reflects that:

The Board of Patent Appeals and Interferences (BPAI) mailed its decision in the instant matter on 21 May, 2008, affirming in part and reversing in part the rejections by the Examiner, and the BPAI provided that no extensions of time were available under 37 C.F.R. §1.136(a) in reply to the decision.

On 3 June, 2008, Petitioner filed a reply in the form of an amendment.

On 9 June, 2008, the Examiner mailed a Notice to the Petitioner indicating that the amendment was not entered and that, pursuant to 37 C.F.R. §1.198, Petitioner would have to file a request for

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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).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f).
Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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continued examination (RCE), fee and submission under 37 C.F.R. §1.114. Further, the Examiner set a reply period of one month, not less than 30 days, and explicitly stated that extensions of time under 37 C.F.R. §1.136(a) were not available.

The application went abandoned by operation of law after midnight 9 July, 2008.

On 1 August, 2008, the Office mailed a Notice of Abandonment.

On 5 August, 2008, Petitioner filed and amendment with a copy of an electronic acknowledgement reflecting a 16 June, 2008, filing of papers that otherwise do not appear in the image file wrapper (IFW)—stated another way, the IFW does not appear at this writing to contain a copy of papers filed on 16 June, 2006—however, a fee transaction in the PALM database for the instant application indicates a credit card payment of $210.00.

On 27 August, 2008, Petitioner filed the instant petition, however, his one- (1-) paragraph petition insufficiently details (*see*: MPEP §711.03(c)) the events/transactions Petitioner believes took place and some of the papers to which Petitioner refers in his petition do not appear to have been submitted with the petition. It would appear that Petitioner failed to file a timely and proper reply under the rules as discussed hereinabove. However, the matter is clouded by the absence of sufficient documentation, as also discussed above.

Thus, at this writing the record is not sufficient to support a grant of the instant petition.

Alternatively, Petitioner may file a petition to revive under the provisions of 37 C.F.R. §1.137(b) with fee, proper reply (e.g. RCE, fee and submission under 37 C.F.R. §1.114) and make the statement of unintentional delay.

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 that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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.

[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 AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. 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.[4] Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5] And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

[3] 35 U.S.C. §133 provides:

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

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

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] 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.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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 unavoidable delay or unintentional delay under 37 C.F.R. §1.137(a) or (b), respectively,. (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 terminal disclaimer and fee where appropriate and 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." (The statement is in the form available online.)

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) 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

---

[9] 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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Alexandria, VA 22313-1450
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ERNEST A. BEUTLER,
ATTORNEY AT LAW
10 RUE MARSEILLE
NEWPORT BEACH CA 92660

COPY MAILED

DEC 15 2008

OFFICE OF PETITIONS

In re Application of :
Masaoka, et al. :
Application No. 10/605,843 : DECISION
Filed/Deposited: 30 October, 2003 :
Attorney Docket No. SIMTEK6701 :

This is a decision on the petition filed on 1 November, 2008, 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 to withdraw the holding of abandonment 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 requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

The Board of Patent Appeals and Interferences (BPAI) mailed its decision in the instant matter on 21 May, 2008, affirming in part and reversing in part the rejections by the Examiner, and the BPAI provided that no extensions of time were available under 37 C.F.R. §1.136(a) in reply to the decision.

On 3 June, 2008, Petitioner filed a reply in the form of an amendment.

On 9 June, 2008, the Examiner mailed a Notice to the Petitioner indicating that the amendment was not entered and that, pursuant to 37 C.F.R. §1.198, Petitioner would have to file a request for continued examination (RCE), fee and submission under 37 C.F.R. §1.114. Further, the

Examiner set a reply period of one month, not less than 30 days, and explicitly stated that extensions of time under 37 C.F.R. §1.136(a) were not available.

The application went abandoned by operation of law after midnight 9 July, 2008.

On 1 August, 2008, the Office mailed a Notice of Abandonment.

On 5 August, 2008, Petitioner filed a petition and amendment with a copy of an electronic acknowledgement reflecting a 16 June, 2008, filing of papers that otherwise do not appear in the image file wrapper (IFW)—stated another way, the IFW does not appear at this writing to contain a copy of papers filed on 16 June, 2006—however, a fee transaction in the PALM database for the instant application indicates a credit card payment of $210.00.

On 27 August, 2008, Petitioner filed a petition, however, his one- (1-) paragraph petition insufficiently detailed (*see*: MPEP §711.03(c)) the events/transactions Petitioner believed took place and some of the papers to which Petitioner referred in his petition did not appear to have been submitted with the petition. While it appeared that Petitioner failed to file a timely and proper reply under the rules as discussed hereinabove, the matter was clouded by the fact that Petitioner provided none of the documentation and narrative (statement/showing) as set forth at MPEP §711.03(c)(I). Thus, the petition was dismissed on 29 September, 2008.

On 1 November, 2008, Petitioner re-advanced his petitions of 5 and 27 August, 2008, with no more showing than before, however, it now is noted that it appears that the materials contended by Petitioner as having been timely filed are in fact set off by the Office in the Image File Wrapper (IFW) as "Closed"—a condition analogized in the times of paper files as materials having been expunged. Thus, the Petitioner's reply appears to have been timely. Petitioner is cautioned, however, that the requirements set forth at MPEP §711.03(c)(I) are controlling as to petitions seeking relief pursuant to 37 C.F.R. §1.181, and Petitioner should not ignore those explicit requirements.

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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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]

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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). See specifically, the regulations at 37 C.F.R. §10.18.

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.[2],[3]

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 1 August, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU (TC/AU) 3747 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.

---

[2] 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).

[3] 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.))

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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NOV 19 2004

NAIPO (North American International Patent Office)
P.O. Box 506
Merrifield, VA 22116

MAILED

NOV 19 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of:
Tsung-Te Lin
Application No. 10/605,853 : **DECISION ON REQUEST**
Filed: October 30, 2003 : **FOR WITHDRAWAL OF**
For: BELT TENSIONING DEVICE : **ATTORNEY**

This is a decision on the request filed on May 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition A), the Agent Mord Michael Lewis, signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the agent making the request. Therefore, the agent given power in the original declaration (associated with Customer Number 27765) remain.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 10/26/04

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.
10/605,862	10/31/2003	Steven Hubbard	GEPL.P-092	2861

43247 7590 04/22/2008

Marina Larson & Associates LLC
re: lexan
PO BOX 4928
DILLON, CO 80435

EXAMINER	
ALEXANDER, LYLE	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/22/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

4-22-08

dss

In re application of :
Hubbard et al.. : DECISION ON
Serial No. 10/605,862 :PETITION
Filed: October 31, 2003 :
For: TAGGING MATERIAL FOR POLYMERS, METHODS, AND ARTICLES MADE THEREBY

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT filed December 18, 2007 requesting review and withdrawal of the restriction requirement mailed June 18, 2007 and made final in the office action mailed September 25, 2007.

On June 18, 2007 a four way restriction between method of identifying a polymer, method of using tagged polymer material, polymer material, and a data storage medium was mailed. Applicants traversed the requirement in the response filed July 17, 2007. The examiner repeated the restriction requirement in an office action mailed September 25, 2007 and made the restriction requirement final.

On December 18,2007 the instant petition under 37 CFR 1.181 was untimely filed to formally request the withdrawal of the restriction requirement being more than 2 months from the mailing of the final restriction requirement in the office action of September 25, 2007. Nevertheless, the petition will be considered in the alternative under 37 CFR 1.444.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct nor undue burden will result.

DECISION

Sections 803, 806.05(d),806.05(c), and 806.05(h) of the MPEP states:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(d) [R-5] Subcombinations Usable Together
Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.
> To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary. Each subcombination is distinct from the combination as claimed if:
(A) the combination does not require the particulars of the subcombination as claimed for patentability (e.g., to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in another materially different combination.
See MPEP § 806.05(c). Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search.
Where claims to two or more subcombinations are presented along with a claim to a combination that includes the particulars of at least two subcombinations, the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). For example, if an application claims ABC/B/C wherein ABC is a combination claim and B and C are each subcombinations that are properly restrictable from each other, the presence of a claim to C provides evidence that the details of B are not required for the patentability of combination ABC.
Upon determining that all claims directed to an elected combination invention are allowable, the examiner must reconsider the propriety of the restriction requirement. Where the combination is allowable in view of the patentability of at least one of the subcombinations, the restriction requirement between the elected combination and patentable subcombination(s) will be withdrawn; furthermore, any subcombinations that were searched and determined to be allowable must also be rejoined. If a subcombination is elected and determined to be allowable, nonelected claims requiring all the limitations of the allowable claim will be rejoined in accordance with MPEP § 821.04. <

806.05(c) [R-5] Criteria of Distinctness Between Combination and Subcombination
To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a *>serious< search burden >if restriction were not required< as evidenced by separate classification, status, or field of search. See MPEP § 808.02.
The inventions are distinct if it can be shown that a combination as claimed:
(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in another materially different combination.
When these factors cannot be shown, such inventions are not distinct.

In the June 18, 2007 office action, the examiner stated that Group I claims 1-22 are drawn to a method of identifying a polymer, Group II claim 23 drawn to a method using a tagging material, Group III claims 24-68 drawn to a polymer material, and Group IV claim 69 drawn to a data storage method. Examiner then continues by stating that Group IV and Groups I,II,III are related as subcombinations usable in a single combination, Groups I and II,III are related as combination and subcombination, and Groups III and II are related as product and process of use.

Petitioner argues that i) Group IV claim 69 is a species of Group III and as such they must be examined together ii) the examiner's basis for maintaining the restriction requirement is incorrect as none of the groups outlined by the examiner are so related as subcombinations and combinations; and thus has not established that such are indeed distinct inventions and that no undue burden exists for searching as all contain similar limitations, and iii) Petitioner further states Group II is a species of generic claim Group I and that such must be examined together.

With regards to arguments i),ii) and iii), it is clear that Group IV and Group III and like-wise Group II and Group I are distinct inventions while a species is a differing embodiment of a distinct invention see MPEP 806.04(e) and a genus is per MPEP 806.04(d) " a generic claim should require no material element additional to those required by the species claims, and each of the species claims must require all the limitations of the generic claim". Thus it is clear that Group IV is not a species of Group III and Group II is not a species of Group I as the proposed species each require additional limitations not required by the proposed generic claims. Claim 69 requires storage medium including a polycarbonate having a perylene which is not required by claim 24 of a polymer including a tagging material. The limitations of a storage medium and a polymer having a tagging material are not required by each separate group. Similarly Claim 23 of Group III is to a method of identifying a polycarbonate with a perylene while Group I is a method of identifying a polymer with a fluoro dye. Thus again Group III requires additional limitations not found within Group I.

Moreover, the Groups have been properly identified as subcombinations and combinations usable together. Claim 69(Group IV) requires a perylene not required by the combination of Group III. This is evidence that the combination as claimed does not require the specifics of the subcombination claim 69. On its face, this requirement appears to meet the necessary criteria for restriction as set forth in the cited MPEP section above.

In regards to the undue burden issue, it is noted that a search for the independent and distinct inventions while overlapping may not necessarily be coextensive and that the issues for examining the independent and distinct inventions outlined above, requiring undue burden in both search and examination.

In view of the above discussion, having weighed both the examiner's position and the applicants' arguments, it is concluded that, on the balance, the restriction requirement is proper.

The petition is DENIED.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Marina Larson & Associates LLC
re: lexan
PO BOX 4928
DILLON CO 80435

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Law Office of Rod D. Baker
707 State Highway 333
Suite B
Tijeras, NM 87059-7382

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FEB 2 8 2008

OFFICE OF PETITIONS

In re Application of :

Ronald J. Petras :
Application No. 10/605,877 : DECISION ON PETITION
Filed: November 3, 2003 : TO WITHDRAW
Attorney Docket No. : 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 4, 2008.

The request is **APPROVED**.

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

The request was signed by Rod D. Baker on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

Applicant is advised that there is no attorney of record.

The correspondence address has been changed to that of the assignee of the application and is copied below.

A non-final rejection was mailed on January 28, 2008. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John Wierzba
ABC Party Games, Inc.
16264 E. Prentice Place
Centennial, CO 80015

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/605,877	11/03/2003	Ronald J. Petras	

CONFIRMATION NO. 2876

POWER OF ATTORNEY NOTICE

62206
LAW OFFICE OF ROD D. BAKER
707 STATE HIGHWAY 333
SUITE B
TIJERAS, NM 87059-7382

OC000000028522739

Date Mailed: 02/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2008.

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

/kainabinet/

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,893

Filed: 11/4/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

COPY MAILED

AUG 20 2008

In re Application of	:	
Steel, James A. Jr.	:	
Application No. 10/605,896	:	ON PETITION
Filed: November 4, 2003	:	
Attorney Docket No. 51900-112001-002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 23, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090721

DATE : July 23, 2009

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction on Patent No.: 7,059,758

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

Line item 2 is not approved as marked. Because it would raise lack of anecedent basis for "the lamp".

/Sandra L. O'Shea/
Supervisory Patent Examiner, Art Unit 2875

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

Patent No. : 7,243,276
Ser. No. : 10/605,927
Inventor(s) : Norris, et. al.
Issued : July 10, 2007
Title : METHOD FOR PERFORMING A BURN-IN TEST
Docket No. : FIS92003035US1

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 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Jack P. Friedman
Schmeiser, Olsen & Watts
22 Century Hill Drive, Suite 302
Latham, NY 12110

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

9-24-08

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

Patent No. : 7,243,276
Ser. No. : 10/605,927
Inventor(s) : Norris, et. al.
Issued : July 10, 2007
Title : METHOD FOR PERFORMING A BURN-IN TEST
Docket No. : FIS920030305

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, 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.

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

Jack P. Friedmen
Schmeiser, Olsen & Watts
22 Centruey Hll Drive, Suite 302
Latham, NY 12110

ej

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

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

COPY MAILED
DEC 2 4 2008

In re Patent No. 7,243,276 :
Issue Date: July 10, 2007 :
Application No. 10/605,927 : ON PETITION
Filed: November 6, 2003 :
Attorney Docket No. FIS920030305 :

This is a decision on the petition filed August 25, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

At present the request is **DISMISSED**.

A review of the record of this patent discloses that petitioner submitted a Certificate of Correction on July 23, 2007 and September 24, 2007, requesting that Infineon Technologies North America Corp, San Jose, CA (US) be listed as the second assignee for the patent. Thereafter, on August 25, 2008 and October 21, 2008, respectively, petitioner submitted new requests for a Certificate of Correction to delete, "International Business Machines Corporation, Armonk, NY (US) and insert Infineon Technologies AG. Munchen, Germany as the assignee.

A review of the assignment records indicates that there are two assignees listed for the present patent. Therefore, petitioner must clarify the chain of title to this patent before a Certificate of Correction correcting the name of the assignee is issued.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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

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MAR 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,243,276 :
Issue Date: July 10, 2007 :
Application No. 10/605,927 : ON PETITION
Filed: November 6, 2003 :
Attorney Docket No. FIS920030305 :

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

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Norris *et al.* Docket No.: FIS920030305US1

Serial No.: 10/605,927 Group Art Unit: 2138

Filed: 11-06-2003 Examiner: Phung My Phung

Patent No. 7,243,276 Date of Patent: 07-10-2007

Title: METHOD FOR PERFORMING A BURN-IN TEST

Mail Stop: PETITIONS
Comissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Request For Adding An Assignee to a Patent

Sir:

Please enter "Infineon Technologies AG, Munchen, Germany," as the Assignee to the above mentioned patent.

Adjustment Date: 03/17/2009 CKHLOK
09/24/2007 INTEFSW 00010090 190513 10605927
01 FC:1464 130.00 CR

Adjustment Date: 03/17/2009 CKHLOK
07/23/2007 INTEFSW 00007282 190513 10605927
01 FC:1811 100.00 CR

03/17/2009 CKHLOK 00000010 190513 7243276
Sale Ref: 00000011 DA#: 190513 7243276
01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

Conclusion

After the Request for correction of the assignment has been granted, applicants request that this file be forwarded to the Certificate of Correction Branch for issuance of a Certificate of Correction. The $100 fee for this transaction has already been paid.

The Director is hereby authorized to charge/or credit Deposit Account 19-0513.

Date: October 21, 2008

/Jack P. Friedman/
Jack P. Friedman
Registration No. 44,688
SCHMEISER, OLSEN & WATTS
22 Century Hill Drive, Suite 302
Latham, NY 12110
(518) 220-1850

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

NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Alfredsson et al.	:	
Application No. 10/605,932	:	ON PETITION
Filed: November 6, 2003	:	
Attorney Docket No. 07589.0072.NPUS01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2006, 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 response has been accepted as having been unintentionally delayed.

Petitioner's credit card was inadvertently charged the $1500.00 petition fee twice. Accordingly, one of the two will be refunded in due course.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
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

NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Alfredsson, Sverker	:	
Application No. 10/605,932	:	DECISION ON PETITION
Filed: November 6, 2003	:	
Attorney Docket No. 7589.072.NPUS01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC131
FEB 0 2 2005
PATENT & TRADEMARK OFFICE

Paper No. 7

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER FL 33760

(Petitioner)

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FEB 17 2004

OFFICE OF PETITIONS

In re Application of
MOREJON, ISRAEL , et al.
Application No. 60/319,671
Filed: November 6, 2002
Atttorney Docket No. 1413.06

: Decision Granting Petition

This is a decision on a request for reconsideration filed September 10, 2003, and supplemented on January 27, 2004, of a decision dismissing a petition for suspension of the 37 CFR 1.84(a)(2) under 37 CFR 1.183 mailed April 9, 2003.

The petition is **GRANTED**.

The request for reconsideration states that Justice requires a waiver of the rules. This is interpreted to mean that since the filing date of a patent application is very critical and not according a filing date could result in loss of patent rights; the situation in this application is deemed to be an extraordinary situation where justice requires waiver of the rules.

The request for reconsideration included a paper copy of the application as required by paper no. 4. The request states the steps that were taken to print the copy of the application that was submitted and the supplemental response filed January 27, 2004, states the drawings submitted with the present request on September 10, 2003 are identical to the electronic versions submitted in the original EFS filing. Michael Lewis of this office similarly, reviewed the drawings and electronic filing to verify the latter statement.

Since the paper drawings are identical to the electronic submission and justice requires their acceptance the petition to waive the rules is GRANTED.

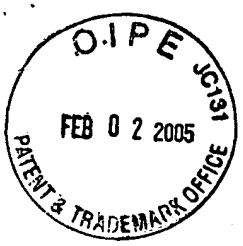
In view of the above, the application is entitled to a filing date of November 6, 2002.

The instant application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 6, 2002, using the application papers filed November 6, 2002, and application pages numbered 8 to 21 of drawings filed September 10, 2003, and an indication on the bibliographic data sheet that 14 pages of drawing were present on filing.

Telephone inquiries concerning this decision should be directed to Michael L. Lewis at (703) 306-5585.

Fred Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

mll



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Alexandria, VA 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,940

Filed: 11/6/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Chih-Wen Huang :
Application No. 10/605,950 :
Filed: November 9, 2003 :
Attorney Docket No. PMXP0172USA :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 11, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2166 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 22 2009

OFFICE OF PETITIONS

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

In re Application of :
Huang :
Application No. 10/605,950 : DECISION ON PETITION
Filed: November 9, 2003 :
Attorney Docket No. 17657.26a :

This is a decision on the petition, filed March 27, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a Notice of Non-Complaint Amendment, which was mailed on June 9, 2008. The Notice of Non-Complaint Amendment set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on July 10, 2008.

Petitioner asserts that the Notice of Non-Complaint Amendment dated June 9, 2008 was not received.

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

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

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

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner

should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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

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

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

This application is being referred to art unit 2166 for review of the reply to the Notice of Non-Compliant Amendment submitted on petition in the normal course of business.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. _10/605953

Filed: November 10, 2003

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The requester, Mr. Michael Mord Lewis, is not of record.

Accordingly, the Request to Withdraw as Attorney is **Denied**.

Mr. Winston Hsu and Scott Margo remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050526

DATE : December 28, 2005

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 10/605963

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: David Nelms **Art Unit** 2818

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

MAIL

DEC 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/605,971

Filed: 11/11/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

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JUL 28 2006
OFFICE OF PETITIONS

In re Application of :
Jean-Francois Durette :
Application No. 10/605,992 : DECISION GRANTING PETITION
Filed: November 12, 2003 :
Attorney Docket No. 10328-1 :

This is a decision on the petition, filed April 12, 2006 , which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on September 16, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(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 of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is November 2, 2006 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $750.00 has been applied to the finance records for this application.

This matter is being referred to the Publishing Division.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAIL

JUL 05 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NORTH AMERICA INTERNATIONAL
PATENT OFFICE (NAIPC)
P.O. BOX 506
MERRIFIELD, VA 22116

In re application of:
Bao-Chi Peng
Application No. 10/605,998
Filed: November 12, 2003
For: SIGNAL DEMODULATIION IN A MOBILE RECEIVER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Attorney requesting withdrawal is not of record.

Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of
Bernd SCHESSL et al.
Application No. 10/606,008
Filed: June 25, 2003
Attorney Docket No. 2000P13034WOUS

DECISION ON PETITIONS
UNDER 37 CFR 1.183 AND
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/14193, filed December 4, 2001, as set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment filed April 28, 2006 claims priority to PCT Application No. PCT/EP01/14193. However, the examiner has indicated that the proposed amendment would not be entered. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must now submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Bernd SCHESSL et al. : DECISION ON PETITION
Application No. 10/606,008 : UNDER 37 CFR 1.78(a)(3)
Filed: June 25, 2003 :
Attorney Docket No. 2000P13034WOUS :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/14193, filed December 4, 2001, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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

365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3637 for appropriate action on the amendment filed September 11, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,008	06/25/2003	3637	880	2000P13034WOUS	1	7	1

CONFIRMATION NO. 5730

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000020685174

Date Mailed: 10/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bernd Schessl, Dillingen, GERMANY;
Helmut Jerg, Giengen, GERMANY;
Michael Rosenbauer, Reimlingen, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/14193 12/04/2001

Foreign Applications

GERMANY 10065637.4 12/29/2000
If Required, Foreign Filing License Granted: 09/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/606,008

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Dishwasher

Preliminary Class

312

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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JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

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OFFICE OF PETITIONS

In re Patent No. 6,877,758 :
Issued: 12 April, 2005 :
Application No. 10/606,019 : ON PETITION
Filed: 25 June, 2003 :
For: PIVOTING IMPLEMENT HITCH EXTENSION :

This is a decision on the petition under 37 CFR 1.182, filed on 16 August, 2006, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 12 April, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Although petitioners' counsel states that the original Letters Patent was lost in the mail, petitioners have not provided sufficient supporting documentation (*i.e*, a copy of the docket record or file jacket where the Letters Patent would have been entered had it been received must be attached to and referenced in practicioner's statement) showing that the original Letters Patent was not received.

Nevertheless, as petitioner has submitted the petition fee, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower 8C32 (FAX 571-270-9937)

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COMMISSIONER FOR PATENTS
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Paper No.

Robert E. Rosenthal
DUANE MORRIS LLP
One Liberty Place
Philadelphia, PA 19103-7396

COPY MAILED
MAR 05 2004
OFFICE OF PETITIONS

In re Application of :
James C. Chong, et al. :
Application No. 10/606,028 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. R0288-00010 :

This is in response to the petition under 37 CFR 1.47(a), filed November 17, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Raymond Chow
143 Minerva Way
San Ramon, CA 94583

In re Application of
James C. Chong; Joseph L. Chan; Tushar M. Patel; Jean J. Heler; Chi Hong So; Robert S. Lam; Raymond Chow; Jerome D. Banks; Christopher M. Zychowski; and Henry Tang
Application No. 10/606,028
Filed: June 26, 2003
For: METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS IN A DISTRIBUTED ENVIRONMENT

Dear Mr. Chow:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robert E. Rosenthal
DUANE MORRIS LLP
One Liberty Place
Philadelphia, PA 19103-7396

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MAR 0 5 2004

OFFICE OF PETITIONS

Christopher M. Zychowski
280 Liberty Street
San Francisco, CA 94114-3023

In re Application of
James C. Chong; Joseph L. Chan; Tushar M. Patel; Jean J. Heler; Chi Hong So; Robert S. Lam; Raymond Chow; Jerome D. Banks; Christopher M. Zychowski; and Henry Tang
Application No. 10/606,028
Filed: June 26, 2003
For: METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS IN A DISTRIBUTED ENVIRONMENT

Dear Mr. Zychowski:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robert E. Rosenthal
DUANE MORRIS LLP
One Liberty Place
Philadelphia, PA 19103-7396

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MAR 0 5 2004

OFFICE OF PETITIONS

Henry Tang
1751 Magnolia Way
Walnut Creek, CA 94595

In re Application of
James C. Chong; Joseph L. Chan; Tushar M. Patel; Jean J. Heler; Chi Hong So; Robert S. Lam; Raymond Chow; Jerome D. Banks; Christopher M. Zychowski; and Henry Tang
Application No. 10/606,028
Filed: June 26, 2003
For: METHOD AND SYSTEM FOR MONITORING PERFORMANCE OF APPLICATIONS IN A DISTRIBUTED ENVIRONMENT

Dear Mr. Tang:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robert E. Rosenthal
DUANE MORRIS LLP
One Liberty Place
Philadelphia, PA 19103-7396

UNITED STATES PATENT AND TRADEMARK OFFICE

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KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE
210
BEVERLY HILLS, CA 90212

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NOV 17 2008

In re Application of	:	
James C. Chong, et al.	:	
Application No. 10/606,028	:	DECISION GRANTING PETITION
Filed: June 25, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SLV920040552US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 25, 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2444 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE #210
BEVERLY HILLS, CA 90212

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SEP 0 3 2009

OFFICE OF PETITIONS

In re Application of :
James C. Chong et al :
Application No. 10/606,028 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. SVL920040552US2

This is a decision on the petition, filed September 2, 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 March 1, 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 2444 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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NIXON PEABODY LLP
401 9TH STREET, N.W.
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Paul L. Master	: DECISION ON REQUEST FOR
Patent Number	: 7609297	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,031	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1332** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GARY E. PARKER
PATENT DEPARTMENT
ZYMOGENETICS, INC.
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102

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OFFICE OF PETITIONS

In re Application of
Charles E. Hart et al
Application No. 10/606,055
Filed: June 25, 2003
Attorney Docket No. 00-79D1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)
:
:

This is a decision on the petition filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Aplication No. 60/235,295, filed September 26, 2000.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). In addition, the petition under 37 CFR § 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i) of the prior-filed application, unless 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)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). *See* 35 U.S.C. § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR § 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § § 119(e), the petition to accept an unintentionally delayed claim of benefit to the above-noted, prior-filed provisional application is granted.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. 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 1646 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 19, 2005

J. E. McTaggart
1860 Eastman Ave., Suite 105
Ventura, CA 93003

In re Application of:
Alexander I. Gilevich On Petition
Serial No: 10/606,078
Filing Date: June 26, 2003
For: **X-RAY FOOD INSPECTION CONSOLE SUPPORT AND COOLING SYSTEM**

In response to the petition received October 19, 2003, to withdraw the holding of abandonment in the above application.

The Petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 11, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned October 12, 2003. The notice of abandonment was mailed October 15, 2004.

It appears that the application was complete at the time of filing. The declaration was missed placed in the office.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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Commissioner for Patents
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Fisher et al. : DECISION ON APPLICATION
Application No. 10/606,113 : FOR
Filed: June 26, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 038819.52556US:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed June 9, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred twenty-two (122) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one hundred twenty-two (122)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 18, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 9, 2006, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 216 days associated with the filing of a response to the non-final Office action mailed March 9, 2005 on January 11, 2006. Applicants state that a reply was filed on July 11, 2005, and that the response was resubmitted on January 11, 2006 with a status inquiry. Thus, the reduction for

[1] PALM records indicate that the Issue Payment was filed on August 15, 2006.

this delay pursuant to § 1.704(b) should be 32 days, not 216 days. Further, applicants assert that, given that the response was actually filed on July 11, 2005, a period of adjustment of 188 days pursuant to §§ 1.702(a)(2) and 1.703(a)(2) should be entered for the Office taking until May 18, 2006 respond with the mailing of a Notice of Allowance. In support thereof, applicants submit a copy of their itemized and date-stamped return postcard, acknowledging receipt of the reply in the Office on July 11, 2005.

Applicants state that the application is not subject to a terminal disclaimer.

Applicants are correct. The postcard evidence and application history show that the reply is properly considered filed on July 11, 2005. Furthermore, applicants' characterization of the basis for and amounts of the corrections to the adjustments and reductions of patent term in this application given the filing of the reply on July 11, 2005 is correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 122 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Alan Y. Chow :
Application No. 10/606,117 :
Filed: June 24, 2003 :
Attorney Docket No. 3614/172 :

DECISION ON REQUEST 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 January 27, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

This application file is being referred to Technology Center Art Unit 3766, for review of the response to the Office action filed May 24, 2006.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

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PSC SCANNING, INC. - STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of :
Jorge L. Acosta :
Application No. 10/606,119 : ON PETITION
Filed: June 24, 2003 :
Attorney Docket No. 51306/695:1 :

This is a decision on the petition, filed May 4, 2005, 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 March 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2876 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-30-09 Paper No.: _____

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/606,119 Patent No.: 6944255

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

FOR IFW FILES: Should doc be approved

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: The last page of the Request for Certificate of Correction reads "In the drawings, replace Sheet 8 with the following whereby in Fig. 19 element numeral "266" is changed to --266b--; "265" to --265b--; "263" to --266a--; "264" to --266a--"

The element numerals "263" and "264" requested to be changed to the same element numeral --266a--. It appears that "264" should be changed to 265a.

/STEVEN S. PAIK/ 2887

SPE Art Unit

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-30-09 Paper No.: _____

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/606,119 Patent No.: 6944255

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

FOR IFW FILES: Should coc be approved

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: The last page of the Request for Certificate of Correction reads "In the drawings, replace Sheet 8 with the following whereby in Fig. 19 element numeral "266" is changed to --266b--; "265" to --265b--; "263" to --266a--; "264" to --266a--"

The element numerals "263" and "264" requested to be changed to the same element numeral --266a--. It appears that "264" should be changed to 265a.

/STEVEN S. PAIK/ 2887

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-3-09 Paper No.: _____

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/606119 Patent No.: 6944250

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

FOR IFW FILES: Please Check Reconsideration

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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: _____

/STEVEN S. PAIK/ 2887
SPE **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

07 AUG 1999

John P. O'Banion
GERBER, RITCHEY & O'BANION
400 Capitol Mall, Suite 1550
Sacramento, CA 95814

In re Application of THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:	:	DECISION ON
PCT No.: PCT/US99/09880	:	PETITION
Int. Filing Date: 19 April 1999	:	
Priority Date: 21 April 1998	:	UNDER 37 CFR 1.182
Attorney's Docket No.: UC98-194-2P	:	
For: CONTROL METHOD AND APPARATUS FOR INTERNAL COMBUSTION ENGINE ELECTRIC HYBRID VEHICLES	:	

This decision is in response to the PETITION filed 17 May 1999 and SECOND PETITION filed 02 July 1999 requesting that international filing date of 19 April 1999 be accorded the above international application.

On 24 April 1999, applicant deposited a purported international application consisting of a Transmittal Letter to the United States Receiving Office, Request (Form PCT/RO/101), description, claims, abstract, drawings, a fee calculation sheet, and a check. The RO/US on 12 May 1999 mailed to applicant an "INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION" (Form PCT/RO/103) indicating the purported international application does not fulfill the requirements under Article 11(1) for the according of an international filing date because the application does not contain a part which on its face appears to be a description and claims (PCT Article 11(1)(iii)(d) and (iii)(e)). The Invitation also informed applicant that "The international filing date will be the date on which the corrections are received, if that date falls within the time limit indicated above." The time limit was set as one month from the mailing of the "Invitation."

On 17 May 1999, applicant filed a present petition, accompanied by copies of a description (18 Sheets), claims (4 sheets), abstract sheet (1 sheet), drawings (9 sheets) and an itemized post card stamped with a PCT/PTO stamp with a date of 19 April 1999. The card indicates that the above-identified international application was with the aforementioned items.

Applicant's evidence is being accepted that the international application deposited with the Patent and Trademark Office on 11 December 1998 contained 18 sheets of description, 4 sheets of claims, an abstract and 9 sheets of drawings.

On 06 August 1999, applicant filed a copy of the Customer Receipt of the "Express Mail" mailing label #EL348669591US. The mailing label was addressed to the "BOX PCT, ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513 ATTN RO/US" and shows a "Date In" of "4/19/99."

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 19 April 1999. Specifically, the "Express Mail" label number ("#EL348669591US") appears on "Express Mail" certificate on the Transmittal Letter . Additionally, the number UC98-194-2P appears on the "Express Mail" label which is the same as the attorney docket number appearing on the Request and the Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 19 April 1999.

Accordingly, applicant's request that the receiving Office correct the international filing date to 19 April 1999 is **GRANTED**.

The application is being returned to the US Receiving Office to correct the international filing date of the present international application to **19 April 1999** and to promptly notify the International Bureau and the international searching authority ISA/US.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

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

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OFFICE OF PETITIONS

In re Application of :
Steve Doe :
Application No. 10/606,131 : ON APPLICATION FOR
Filed: June 24, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0105 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed June 20, 2008. Applicant requests that the initial determination of patent adjustment at the time of mailing of the notice of allowance be corrected from zero (0) days to four hundred seventy-five (475) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent. In addition, pursuant to their duty of good faith and candor to the Office, applicant discloses two errors in their favor in the calculation of patent term adjustment.

To the extent that 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, a decision is being **held in abeyance** until after the actual patent date. 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 § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to

the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on March 17, 2008.

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

To the extent that applicant requests review of the patent term adjustment pursuant to their duty of good faith and candor, the request is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days, including 157 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 16, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days, including 62 days of applicant delay. Applicant discloses that an additional period of adjustment of 97 days should have been entered in connection with the filing of a response after non-final on February 15, 2007. In addition, as applicant filed the request for continued examination (RCE) on March 17, 2008 (and not March 16, 2008), the period of reduction associated with the RCE should have been 30 days, not 29 days.

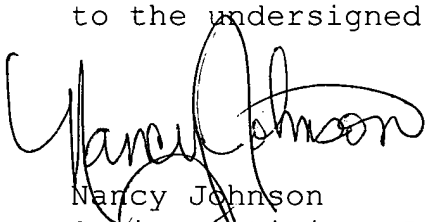
For the most part, applicant is correct. The record confirms that the RCE was filed on March 17, 2008, and therefore, the period of reduction pursuant to 37 CFR 1.704(b) is 30 days. Further, the response filed on November 13, 2006 contained an omission (See Notice of Noncompliant Amendment mailed February 8, 2007). On February 15, 2007, applicant filed a response correcting this omission. As such, pursuant to 37 CFR 1.704(c)(7), a period of reduction of 94 days (not 97) should have been entered for the period beginning the day after a reply containing an omission was filed, November 14, 2006, and ending on the date of filing of the response correcting the omission, February 15, 2007.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 0 days (including 157 days of applicant delay).

The application 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) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTA Calculations for Application: 10/606131			
Application Filing Date:	06/24/2003	PTO Delay (PTO):	37
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	62
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-95		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
95	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
94	09/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
87	04/16/2008	MAIL NOTICE OF ALLOWANCE			
86	04/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	04/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
84	04/14/2008	ISSUE REVISION COMPLETED			
82	04/14/2008	DOCUMENT VERIFICATION			
81	04/14/2008	NOTICE OF ALLOWABILITY			
76	03/25/2008	DATE FORWARDED TO EXAMINER			
75	03/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
74	03/25/2008	DATE FORWARDED TO EXAMINER			
73	03/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	64
72	03/25/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
71	03/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	03/17/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	02/13/2008	MAIL ADVISORY ACTION (PTOL - 303)			
68	02/08/2008	ADVISORY ACTION (PTOL-303)			
67	01/11/2008	AMENDMENT AFTER FINAL REJECTION			
66	01/16/2008	DATE FORWARDED TO EXAMINER			
65	01/11/2008	AMENDMENT AFTER FINAL REJECTION			
64	11/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
63	11/13/2007	FINAL REJECTION			

62	08/28/2007	DATE FORWARDED TO EXAMINER			
61	08/22/2007	RESPONSE AFTER NON-FINAL ACTION			
60	08/27/2007	CORRESPONDENCE ADDRESS CHANGE			
59	08/27/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	06/04/2007	MAIL NON-FINAL REJECTION			
57	05/29/2007	NON-FINAL REJECTION			
56	02/26/2007	DATE FORWARDED TO EXAMINER			
55	02/15/2007	RESPONSE AFTER NON-FINAL ACTION			
54	02/08/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
53	02/05/2007	MISCELLANEOUS ACTION WITH SSP			
52	11/29/2006	DATE FORWARDED TO EXAMINER			
51	11/13/2006	RESPONSE AFTER NON-FINAL ACTION		3	50
50	08/10/2006	MAIL NON-FINAL REJECTION			
49	08/07/2006	NON-FINAL REJECTION			
48	05/07/2006	DATE FORWARDED TO EXAMINER			
47	05/04/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
46	04/06/2006	MAIL RESTRICTION REQUIREMENT	37		42
45	04/03/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
44	03/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
43	11/03/2005	DATE FORWARDED TO EXAMINER			
42	10/31/2005	APPEAL BRIEF FILED			
41	09/14/2005	NOTICE OF APPEAL FILED		28	35
40	09/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/27/2005	MAIL ADVISORY ACTION (PTOL - 303)			
38	07/25/2005	ADVISORY ACTION (PTOL-303)			
37	07/08/2005	DATE FORWARDED TO EXAMINER			
36	07/06/2005	AMENDMENT AFTER FINAL REJECTION			
35	05/17/2005	MAIL FINAL REJECTION (PTOL - 326)			
34	05/16/2005	FINAL REJECTION			
33	03/14/2005	DATE FORWARDED TO EXAMINER			
32	03/03/2005	RESPONSE AFTER NON-FINAL ACTION		2	31
31	12/01/2004	MAIL NON-FINAL REJECTION			
30	11/29/2004	NON-FINAL REJECTION			
29	09/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

28	09/23/2004	DATE FORWARDED TO EXAMINER			
27	09/16/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
26	09/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	08/18/2004	MAIL RESTRICTION REQUIREMENT			
24	08/16/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
23	06/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	01/07/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
21	01/07/2004	NEW OR ADDITIONAL DRAWING FILED			
20	12/15/2003	REFERENCE CAPTURE ON IDS			
19.7	12/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	12/19/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	09/29/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
16	06/24/2003	PRELIMINARY AMENDMENT			
15	11/06/2003	APPLICATION IS NOW COMPLETE			
14	11/05/2003	APPLICATION RETURN FROM OIPE			
13	11/06/2003	APPLICATION IS NOW COMPLETE			
12	11/05/2003	APPLICATION RETURN TO OIPE			
11	11/04/2003	APPLICATION DISPATCHED FROM OIPE			
10	11/05/2003	APPLICATION IS NOW COMPLETE			
9	09/29/2003	ADDITIONAL APPLICATION FILING FEES			
8	09/29/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	09/15/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/20/2003	CASE CLASSIFIED BY OIPE			
3	08/20/2003	CLEARED BY OIPE CSR			
2	08/12/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/24/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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David L. Fehrman
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles, CA 90013

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Toshima et al. :
Application No. 10/606,135 : DECISION GRANTING PETITION
Filed: June 25, 2003 :
Attorney Docket No. 199372002501 :

This is a decision on the petition filed August 23, 2004, requesting that the above-identified application be accorded a filing date of June 25, 2003, with pages 41, 47, 51 and 68 of the specification as part of the original disclosure.

On June 25, 2003, applicants filed the above-identified application. On August 2, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of June 25, 2003, and advising applicants that pages 41, 47, 51 and 68 of the specification appeared to have been omitted.

In response, on August 23, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "Specification (72pp), including 50 original claims and 1-page Abstract." Additionally, applicants submitted pages 41, 47, 51 and 68 of the specification.

Upon review of the record, pages 41, 47, 51 and 68 of the specification deposited on June 25, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 25, 2003, included pages 41, 47, 51 and 68 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including

pages 41, 47, 51 and 68 of the specification, was complete on filing and will be granted a filing date of June 25, 2003.

Accordingly, the petition is granted.

The Notice of Omitted Items mailed on August 2, 2004, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 03-1952.

The Office of Initial Patent Examination is directed to **accorded the above-identified application a filing date of June 25, 2003,** using the application papers submitted on that date, and pages 41, 47, 51 and 68 of the specification submitted on August 23, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Gregory L. Bradley
Medrad, Inc.
One Medrad Drive
Indianola, PA 15051

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JUL 31 2008

OFFICE OF PETITIONS

In re Application of	:	
David M. Reilly et al.	:	
Application No. 10/606,157	:	DECISION ON PETITION
Filed: June 25, 2003	:	
Attorney Docket No. CT/03-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record shows that the issue and publication fees were paid on June 27, 2008, along with an amendment, which was within the period for reply of the Notice of Allowance and Notice of Allowability mailed on March 28, 2008. Accordingly, the petition fee of $1,540 will be credited to petitioner's credit card, in due course.

This application is being referred to Technology Center Art Unit 3767 for further processing.

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

Carl Friedman
Petitions Examiner
Office of Petitions

Atty. Docket No.: CT/03-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 11 2008

In re Application of: REILLY et al.	)	
	)	Art Unit: 3767
Serial No.: 10/606,157	)	
	)	Confirmation No.: 3562
Filed: June 25, 2003	)	
	)	Examiner: Andrew M. Gilbert
Title: FRONT-LOADING MEDICAL INJECTOR AND SYRINGES, SYRINGE INTERFACES SYRINGE ADAPTERS AND SYRINGE PLUNGERS FOR USE THEREWITH	)	

COMMUNICATION TO DECISION ON PETITION

Attn: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Decision on Petition mailed July 31, 2008, Applicants submit herewith Form PTO-SB/64a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)). Applicants previously submitted Form PTO-SB/64 and believe that this Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing should be considered and granted.

A courtesy copy of the PTO-SB/64, which was dismissed as moot, is being submitted herewith.

Respectfully submitted,

Dated: August 11, 2008

Jill Denesvich
Reg. No. 52,810

CERTIFICATION OF FACSIMILE/ELECTRONIC TRANSMISSION

I hereby certify that this paper is being facsimile (571) 273-8300 / electronically transmitted to the Patent and Trademark Office on the date shown below.

/Dawn M. Dedola/ Dawn Dedola
Signature

August 11, 2008
Dated

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Dalton
Application No. 10/606,163
Filed: June 25, 2003
Attorney Docket No. 3001.5289.1US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 27, 2006.

The request is **APPROVED**.

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

The request was signed by Laurence B. Bond on behalf of all attorneys of record.

All attorneys/agents associated with this application have been withdrawn.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Michael N. Dalton
5A Dartmouth Park Avenue
London, NW5 1JL

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Dalton
Application No. 10/606,163
Filed: June 25, 2003
Attorney Docket No. 3001.5289.1US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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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 Laurence B. Bond on behalf of all attorneys of record.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Michael N. Dalton
5A Dartmouth Park Avenue
London, NW5 1JL

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/606,163	06/25/2003	Michael Nicholas Dalton	3001-5289.1US

CONFIRMATION NO. 3588

OC000000019980805

OC000000019980805

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 08/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/27/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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HOWREY LLP-HN
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-7195

Mail Date: 04/21/2010

Applicant	: Kevin Thorne	: DECISION ON REQUEST FOR
Patent Number	: 7241874	: RECALCULATION of PATENT
Issue Date	: 07/10/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,190	: OF WYETH
Filed	: 06/25/2003	:
		:

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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CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW, CA 94043-2234

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AUG 30 2007

OFFICE OF PETITIONS

In re Application of Mehta :
Application No. 10/606,201 : Decision on Petition
Filing Date: June 25, 2003 :
Attorney Docket No. 100/05231 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 23, 2006.

Petitioner has submitted the petition fee of $1,500. Petitioner has submitted a reply to the outstanding Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 1639 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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ALAN I. KALB
1125 ATLANTIC AVENUE
3RD FLOOR
ATLANTIC CITY NJ 08401

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OFFICE OF PETITIONS

In re Application of :
Makropoulos, Dino :
Application No. 10/606,255 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. 4877-105 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 9, 2006, 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 the publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Peter T. McCarthy :
Application No. 10/606,265 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. 24652-61 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2006, and supplemented on March 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. As the reply to the final Office action was not received, the application became abandoned on July 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of reply (request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114), (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Office action of January 11, 2006 is accepted as being unintentionally delayed.

Since this application was abandoned for failure to timely reply to the final Office action of January 11, 2006 within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision

on petition, the subsequent action taken by the examiner, i.e., mailing of a Notice of Allowability and Notice of Allowance and Fee(s) Due, has been ratified. In view thereof, it is unnecessary to either vacate or re-mail the Notices of September 21, 2006.

As authorized in the communication received March 6, 2007, the $500 balance due for the petition fee will be charged to petitioner's deposit account.

The issue fee has been received. Accordingly, this application is being referred to Publishing Division for further action in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No.

Vinson & Elkins, L.L.P.
2300 First City Tower
1001 Fannin
Houston, TX 77002-6760

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MAR 23 2004

OFFICE OF PETITIONS

In re Application of :
Mark E. Van Dyke, et al. :
Application No. 10/606,279 : ON PETITION
Filed: June 24, 2003 :
Attorney Docket No. KER020/4-025US :

This is in response to the petition under 37 CFR 1.47(a), filed December 12, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
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

Dr. Cheryl R. Blanchard
111 Lakeland Drive
Warsaw, IN 46580

COPY MAILED

MAR 23 2004

OFFICE OF PETITIONS

In re Application of
Mark E. Van Dyke; Cheryl R. Blanchard; and Robert A. Smith
Application No. 10/606,279
Filed: June 24, 2003
For: KERATIN-SILICONE COPOLYMERS AND INTERPENETRATING NETWORKS (IPN'S), METHODS OF PRODUCTION AND METHODS OFUSE THEREOF

Dear Dr. Blanchard:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Vinson & Elkins, L.L.P.
2300 First City Tower
1001 Fannin
Houston, TX 77002-6760

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dr. Mark E. Van Dyke
8507 Percheron Circle
Fair Oaks Ranch, TX 78105

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MAR 23 2004

OFFICE OF PETITIONS

In re Application of
Mark E. Van Dyke; Cheryl R. Blanchard; and Robert A. Smith
Application No. 10/606,279
Filed: June 24, 2003
For: KERATIN-SILICONE COPOLYMERS AND INTERPENETRATING NETWORKS (IPN'S), METHODS OF PRODUCTION AND METHODS OFUSE THEREOF

Dear Dr. Van Dyke:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Vinson & Elkins, L.L.P.
2300 First City Tower
1001 Fannin
Houston, TX 77002-6760

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036

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APR 7 2006
OFFICE OF PETITIONS

In re Application of :
Noriko Shinomiya :
Application No. 10/606,283 : DECISION GRANTING PETITION
Filed: June 26, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HYAE:165 :

This is a decision on the petition, filed April 5, 2006, 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 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr9\606283.wpd

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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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in 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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1-10-07

Patent No. : 7,112,388 B2
Ser. No. : 10/606,293
Inventor(s) : Akira Kishida
Issued : September 26, 2006
Title : BATTERY PROVIDED WITH TERMINALS
Docket No. : 0020-5152P

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 1.117(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.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

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

ej

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

COPY MAILED

OCT 3 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,112,388 :
Application No. 10/606,293 :
Filed: June 26, 2003 : ON PETITION
Issued: September 26, 2006 :
Attorney Docket No. 0020-5152P :

This is a decision on the petition filed April 27, 2007, 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**.

A Certificate of Correction was issued on September 23, 2008.

Petitioner submitted the $100.00 requisite certificate of correction fee on both December 6, 2006 and August 13, 2008, when only one payment is necessary. However, 37 CFR 3.81(b) also requires payment of the $130.00 surcharge. Accordingly, the $30.00 shortage will be charge to petitioner's deposit account as authorized on April 27, 2007.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 17, 2006

TO SPE OF : ART UNIT 2851 (*Judy Nguyen*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,853,810

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

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see Item (65) Prior Publication Data. Your denial or approval decision is needed below.

sp

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

_____

_____

_____

_____

_____

SPE 2851 **Art Unit**

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,314	06/25/2003	2875	537	9053-000028US	9	38	3

CONFIRMATION NO. 3195

CORRECTED FILING RECEIPT

OC000000012782505

Anthony G. Fussner
Harness, Dickey & Pierce, P.L.C.
Suite 400
7700 Bonhomme
St. Louis, MO 63105

Date Mailed: 05/26/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Carl R. Vanderschuit, San Diego, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/21/2004

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lighted hat

Preliminary Class

362

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Patent Law Offices of Heath W. Hoglund
256 Eleanor Roosevelt
San Juan PR 00918

In re Application of	:
Munoz-Guerra, et al.	: DECISION REFUSING STATUS
Application No. 10/606,321	: UNDER 37 CFR 1.47(a)
Filed: June 25, 2003	:
Atty. Dkt. No.: AUTO-0010	:
For: CONVEYOR BELT ASSEMBLY	:

This decision is in response to the petition under 37 CFR 1.47(a), filed March 3, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed June 25, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed September 30, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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

As to item (1), petitioners have failed to establish that effort has been made to reach the non-signing inventor at the non-signing inventor's last known address for presentation of the

complete application papers (specification, including claims, drawings, and oath or declaration). Petitioners allege that attempts to reach the non-signing inventor via telephone to arrange a time to have him sign the declaration and assignment have been unsuccessful.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers. Instead, petitioners have merely disclosed that telephone calls have been made to the non-signing inventor. Petitioners have set forth the non-signing inventor's last known address, however, petitioners have not established that any effort has been made to reach the non-signing inventor at this address.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. 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. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (3), the required petition fee of $200.00 has been charged to Deposit Account No. 50-1452.

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 facsimile: (703) 872-9306

By hand:

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

OIPE JC48 MAR 0 3 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ignacio Múñoz-Guerra, *et al.*	Group Art Unit: Unknown
Appln. No.: 10/606,321	Examiner: Unknown
Filed: June 25, 2003	**PETITION UNDER 37 C.F.R. 1.47**
For: Conveyor Belt Assembly	

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a petition under 37 C.F.R. 1.47. The subject application was filed on behalf of Inventors Ignacio Muñoz-Guerra, Ariel Caraballo, Francisco Rosario, Carmelo Arroyo and Geovanny Lopez. Inventors Ignacio Muñoz-Guerra, Ariel Caraballo, Francisco Rosario and Carmelo Arroyo have executed a declaration for the application, and have assigned their entire interest to Autopak Engineering Corp. A copy of the declaration and assignment documents are enclosed herewith.

As set forth in the attached declaration of Ignacio Muñoz-Guerra, this application is a continuation-in-part of U.S. Patent No. 6,612,426, which has the same inventors as this application. This application claims subject matter

03/05/2005 AKELLEY 00000007 10606321

01 FC:1463 200.00 DP

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Patent Law Offices of Heath W. Hoglund
256 Eleanor Roosevelt
San Juan PR 00918

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Munoz-Guerra, et al.	:	DECISION NOTING JOINDER AND
Application No. 10/606,321	:	PETITION UNDER 37 CFR 1.47(a)
Filed: June 25, 2003	:	MOOT
Atty. Dkt. No.: AUTO-0010	:	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 14, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,324	06/25/2003	2875	762	9053-000075US	5	49	6

CONFIRMATION NO. 3198

Anthony G. Fussner
Harness, Dickey & Pierce, P.L.C.
Suite 400
7700 Bonhomme
St. Louis, MO 63105

CORRECTED FILING RECEIPT

OC000000011901990

Date Mailed: 02/13/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Carl R. Vanderschuit, San Diego, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/05/2004

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lighting device

Preliminary Class

362

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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NOT GRANTED

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,325	06/25/2003	2875	546	9053-000094US	9	25	6

Filing date changed
From 06-23-03
To 06-25-03
Appl. No. 10606325

ATION NO. 3193
G RECEIPT

Anthony G. Fussner
Harness, Dickey & Pierce, P.L.C.
Suite 400
7700 Bonhomme
St. Louis, MO 63105

Mailed: 05/28/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Carl R. Vanderschuit, San Diego, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/21/2004

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lighted hat

Preliminary Class

362

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,344	06/25/2003	1615	375	692-A-US	5	19	1

CONFIRMATION NO. 3985

Albert Wai-Kit Chan
Law Offices of Albert Wai-Kit Chan, LLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, NY 11357

CORRECTED FILING RECEIPT

OC000000011746650

Date Mailed: 01/22/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Tuo Jin, Highland Park, NJ;

Assignment For Published Patent Application

BioPharm Solutions Inc.;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/391,756 06/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 09/10/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Solid dosage forms for rapid dissolution of poorly soluble drugs

Preliminary Class

514

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-30-08

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction on Patent No.: 7282041 / 10/606374

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

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

Inventorship Should it be granted?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

/Nicholas D. Lucchesi/ _____ 3763 _____
SPE **Art Unit**

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JAN 25 2005

OFFICE OF PETITIONS

JOHN J. SWARTZ
908 COURT STREET
SAGINAW, MI 48602

In re Application of :
Mack Woodbury :
Application No. 10/606,397 :
Filed: June 27, 2003 :
Attorney Docket No. 20022203.01 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on June 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 7, 2005 was mailed on December 27, 2004.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 3723 for examination in due course.

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 27 2004

Mailed:

MLB
Paper No. ____

In re Application of Arun V. Shastry et al.
Serial No.: 10/606,417
Filed: June 26, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

For: Edible Inks for Ink Jet Printing on Edible Substrates

This is a decision on the PETITION UNDER 37 C.F.R. § 1.48(a) filed March 22, 2004 to correct inventorship under 37 CFR 1.48(a) by deleting the name of David Prybylowski from the list of inventors of the instant application.

A review of the file finds that applicants have met the requirements of 37 C.F.R. § 1.48(a) by filing (1) a request to correct the inventorship, (2) a statement from each inventor being deleted, (3) an oath by the actual inventors; (4) written consent of the assignee and (5) the fee set forth in 37 CFR 1.17(i).

Therefore this petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Mark L. Bell
Supervisory Patent Examiner
Art Unit 1755
Technology Center 1700

FITZPATRICK, CELLA, HARPER & SINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112-3801

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G VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET SUITE 984
SAN FRANCISCO CA 94102

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of :
Spies, et al. :
Application No. 10/606,432 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. ID-8 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 30, 2008.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 2, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 3, 2008. The Office mailed a Notice of Abandonment on September 25, 2008.

Petitioner states that he did not receive the Notice of Allowance, that he searched his file jacket and the Notice is not contained therein, and requests that the holding of abandonment be withdrawn. In support thereof, petitioner has included a copy of his incoming mail log, showing all mail received for the period from June 2, 2008 to July 2, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Accordingly, on renewed petition, petitioner must submit a copy of a docket record showing all of his replies docketed for a due date of September 2, 2008.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $810 for a small entity; 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.

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

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

G VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET SUITE 984
SAN FRANCISCO CA 94102

In re Application of :
Spies, et al. :
Application No. 10/606,432 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. ID-8 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 21, 2008.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 2, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 3, 2008. The Office mailed a Notice of Abandonment on September 25, 2008. Applicants filed a petition to withdraw the holding of abandonment on September 25, 2008, stating that they did not receive the Notice of Allowance. In support thereof, petitioner included a copy of his incoming mail log, showing all mail received for the period from June 2, 2008 to July 2, 2008. However, the petition was dismissed in a decision mailed on October 10, 2008. The petition was dismissed because applicants had not submitted a copy of a master log, showing all replies docketed for a due date of September 2, 2008.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received 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.

Here, petitioner has stated that no master docket exists. Accordingly, it is concluded that the incoming mail log submitted with the petition on September 25, 2008 is sufficient to conclude that the Notice of Allowance was not received.

The application is being forwarded to Group Art Unit 2132 for re-mailing of the June 2, 2008 Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 711.03(c).

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

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MAR 17 2010

In re Application of	:	
LEPING HUANG	:	
Application No. 10/606,437	:	ON APPLICATION FOR
Filed: June 25, 2003	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 088245-0113	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed December 23, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred eighty-three (183) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the 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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Robert M. Batz	: DECISION ON REQUEST FOR
Patent Number	: 7650402	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1334** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO IL 60606

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Patent No. 7621412	:	DECISION ON REQUEST
Subodh K. Raniwala	:	FOR
Issue Date: 11/24/2009	:	RECONSIDERATION OF
Application No. 10/606439	:	PATENT TERM ADJUSTMENT
Filed: 06/26/2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
006943.00395	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least three hundred sixty-six (366) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred sixty-five (365) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 27, 2006, and ends on October 22, 2006, the day before the RCE was filed, and is 118 (not 119) days. See 35 U.S.C. 154(b)(1)(B)(i). Accordingly, the patent term adjustment is 365, not 366, days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred sixty-five (365)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,621,412 B2

DATED : **Nov. 24, 2009** **DRAFT**

INVENTOR(S) : Raniwala

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 247 days.

Delete the phrase "by 247 days" and insert – by 365 days--

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CRESTWOOD, KY 40014

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OFFICE OF PETITIONS

In re Application of	:	
Yuan, Xing	:	
Application No. 10/606,468	:	ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. IGC-104	:	

This is a decision on the petition under 37 CFR 1.102(c), filed on June 26, 2003, to make the above-identified application special based on superconductivity technologies as set forth in M.P.E.P. § 708.02, Section IX.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IX: Special Status for Patent Applications Relating to Superconductivity, must be accompanied by a statement that the invention involves superconductive materials. Examples of such inventions would include those directed to superconductive materials themselves as well as to their manufacture and application. No fee is required.

The instant petition includes the statement, "The subject matter of the invention relates to superconductive materials, their manufacture or application." Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 3727 for action on the merits commensurate with this decision.

Amelia Au
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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Paper No.

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

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Borden et al. : DECISION ON PETITION
Application No. 10/606,517 :
Filed: June 25, 2003 :
Atty Docket No. 57266/2 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed June 20, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed April 9, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply received and no extension of time obtained, the application became abandoned on July 10, 2007. A courtesy Notice of Abandonment was sent on October 19, 2007.

The petition includes the required reply in the form of an amendment, payment of the petition fee and the required statement of unintentional delay. No terminal disclaimer is required.

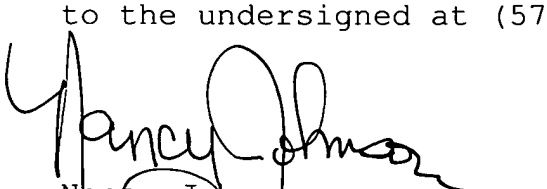
The instant petition was filed by and the statement of unintentional delay signed by a newly appointed patent practitioner of record. It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such

delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Receipt of the power of attorney and change of address filed June 20, 2008 is acknowledged and made of record.

Technology Center AU 2141 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed June 20, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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JUL 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,805	:	DECISION ON REQUEST FOR
Anders Magnusson	:	RECONSIDERATION OF
Issue Date: January 27, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/606,538	:	AND NOTICE OF INTENT TO
Filed: June 26, 2003	:	ISSUE CERTIFICATE OF
Docket No. 12389-004001/ PD53566USO	:	CORRECTION

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed January 8, 2009, requesting that the determination of patent term adjustment be reviewed for accuracy pursuant to a duty of candor. This is also in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed March 27, 2009, requesting that the determination of patent term adjustment be corrected from three hundred seventy-six (376) days to six hundred thirty-three (633) days.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of two hundred eighty-three (283) days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On January 27, 2009, the above-identified application matured into U.S. Patent No. 7,481,805 with a revised patent term

adjustment of 376 days. This request for reconsideration of patent term adjustment was timely filed.

Initially, patentees disclose that they should have been assessed a period of delay of 93 days, pursuant to 37 CFR 1.704(c)(7), for the filing of a reply having an omission on January 23, 2006.

Pursuant to 37 CFR 1.704(c)(7), the submission of a reply having an omission (§ 1.135(c)) is a failure to engage in reasonable efforts to conclude prosecution, and the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

It is undisputed that the reply of January 23, 2006, contained an omission and that a reply correcting the omission was not filed until April 26, 2006. Thus, the period of reduction pursuant to 37 CFR 1.704(c)(7) is 93 days, counting the number of days beginning on January 24, 2006, the day after the first reply containing an omission was filed, and ending on April 26, 2006, the date the omission was corrected. Accordingly, a period of reduction of 93 days will be entered.

Further, patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that the correct number of days of patent term adjustment is 633 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees asserts that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 789 (439 + 350) days as these periods do not occur on the same day. Further, given the applicant delay of 156 days, patentee asserts entitlement to 633 (789 - 156) days of patent term adjustment.

Patentees' interpretation of the period of overlap has been considered, but has been found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final*

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of the filing of the application under 35 U.S.C. 111(a) on June 26, 2003, and ending on the date of filing of the first request for continued examination (RCE) on June 11, 2007 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE.[2] 35 U.S.C. 154(b)(1)(B)(i).

[2] As of the filing of the RCE on June 11, 2007, the application was pending three years and 350 days.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] 439 days[4] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 350 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 350 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 439 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 439 days and the 350 days is neither permitted nor warranted. 439 days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 350 days of Office delay under the three-year pendency provision.

In view of the additional period of reduction pursuant to 37 CFR 1.702 (c) (7), the patent term adjustments indicated on the patent should be 283 days (439 days of Office delay - 156 days of applicant delay).

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A Restriction Requirement was mailed on November 8, 2005, fourteen months and 439 days after the filing of the application on June 26, 2003.

This application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 283 days.

Telephone inquiries specific to this matter should be directed the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,481,805 B2

DATED : Jan. 27, 2009

INVENTOR(S) : Magnusson

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 (376) days

Delete the phrase "by 376 days" and insert – by 283 days--

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,571	06/26/2003	3731	0.00	1043-003us	8	26	3

CONFIRMATION NO. 4953

SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York, NY 10017

CORRECTED FILING RECEIPT

OC000000011756310

Date Mailed: 01/23/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Joseph Aferzon, Residence Not Provided;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

System and method for guiding surgical tools during surgical procedures

Preliminary Class

606

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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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J MARK HOLLAND & ASSOCIATES
3 CIVIC PLAZA SUITE 210
NEWPORT BEACH CA 92660

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Tim P. Horwood et al. :
Application No. 10/606,605 : DECISION ON
Filed: June 26, 2003 : PETITION
Attorney Docket No. HORWOOD.001C2 :

This is a decision on the petition under 37 CFR §1.47(a), filed September 20, 2004.

The petition is **DISMISSED**.

The above-identified application was filed on June 26, 2003. At the time of filing, applicant submitted a 37 CFR 1.63 declaration signed by all of the inventors; Tim P. Horwood, Keith W. Lovell and John F. Pope. The prosecution history is as follows: a restriction requirement was mailed on March 19, 2004 with a one month shortened statutory period set for reply, subsequently, on June 10, 2004, the attorney of record filed a petition for withdrawal as attorney pursuant to 37 CFR 1.36 which was accepted and Notice of the acceptance was mailed to the first named inventor on July 14, 2004.

In response to the Restriction Requirement, on September 20, 2004, the first named inventor, Tim P. Horwood, filed an election with a five month extension of time request, a power of attorney and the instant petition under 37 CFR 1.47(a). Petitioner acknowledges that all of the inventors were responsible for reduction to practice of the subject matter of the instant application and that all inventors had executed the oath or declaration which was filed upon application, but that due to a disagreement between the parties, the attorney of record has withdrawn as their counsel and that the petitioner has been unable to secure the signature of joint inventor Keith W. Lovell on the response to the restriction requirement mailed March 19, 2004.[1]

It should be noted that the signatures of all the joint inventors is also not on the power of attorney filed September 20, 2004 and thus, pursuant to 37 CFR 1.34, the attorney of record purports to only represent the interests of joint inventor Tim P. Horwood and not

[1]The interests of joint inventor John F. Pope have been assigned to joint inventors Tim P. Horwood and Keith W. Lovell and recorded January 26, 2000 at Reel/Frame 0100553/0625.

the interests of joint inventor Keith W. Lovell. However, in that case, the power of attorney should not have been accepted with only the signature of Tim P. Horwood and without a petition under 37 CFR 1.182, and fee, directed to the Office of Petitions. Since the Power of Attorney has been accepted, the Office will treat the request as a petition under 37 CFR 1.182 and will charge deposit account 08-2624 the petition fee in the amount of $130.00 for the request. See MPEP 402.10.

The record will also be clarified that the attorney of record, J. Mark Holland and Associates, only represents Mr. Horwood's interest and not that of Mr. Lovell and that two signatures are required for the prosecution of this application, that of Mr. Horwood's attorney and that of Mr. Lovell. However, the agency will not engage in dual correspondences and will only mail correspondence to the attorney for Mr. Horwood.

As to the response to the restriction requirement entered and the continued prosecution of the application, Mr. Horwood has indicated that Keith W. Lovell has refused to cooperate with the continued prosecution of this application. However, as indicated above, all responses must bear the signature of the attorney for Mr. Horwood and that of Mr. Lovell and thus the response to the restriction requirement cannot be accepted.

37 CFR 1.47 (and a petition thereunder) is only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. Where, as here, all the named inventors have executed the original oath or declaration under 37 CFR 1.63, 37 CFR 1.47 has no relevance to the application. See MPEP 409.03.

Accordingly, notification will be forwarded to Technology Center 3751 that the petition under 37 CFR 1.47 is dismissed and that response to the restriction requirement fails since it isn't signed by all the parties pursuant to MPEP 402.10.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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J MARK HOLLAND & ASSOCIATES
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NEWPORT BEACH CA 92660

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Tim P. Horwood :
Application No. 10/606,605 : DECISION GRANTING PETITION
Filed: June 26, 2003 :
Attorney Docket No. HORWOOD.001C2 :

This is a decision on the petition filed under 37 CFR 1.183 on December 6, 2004 to allow the petitioner to proceed with prosecution of the application without the signature of an inventor.

The petition is **GRANTED**.

The regulations require the signatures of all inventors of an application not being prosecuted by a registered practitioner, on all correspondences filed with the Office. In response to the Restriction Requirement mailed March 19, 2004, petitioner filed an election September 20, 2004 with a five month extension of time request, signed only by joint inventor and assignee Tim P. Horwood, however without the signature of joint inventor Keith W. Lovell. See 37.CFR 1.33 and M.P.E.P 403.

The facts presented on petition indicate that joint inventor John F. Pope assigned all right, title and interest in the instant patent application to joint inventor Tim P. Horwood, that the Attorney of Record withdrew as counsel and that joint inventors Tim P. Horwood and Keith W. Lovell have not been successful at reaching an agreement as to the prosecution of the instant application.

37 CFR 1.183 provides that, "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in Section 1.17(f).

Based on petitioners' assertions that the petitioner, an inventor and assignee of one half interest in the above-identified application, has diligently sought cooperation from Keith W. Lovell, the second named inventor, in the prosecution of the instant application, but without success, it is determined therefore, for purposes of this decision only, that justice requires a waiver of the rules. In this instance, continued prosecution

of the application should not be jeopardized because of the infighting of the principals and neither should any one of the principals be injured because of the refusal of the other principal.

With respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $400.00. Therein, deposit account no. 08-2624 has been charged in the amount of $270.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(f). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application is being forwarded to Technology Center 3751 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of:	:	
Eid et al.	:	LETTER REGARDING
Application No. 10/606623	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/25/2003	:	
Atty Docket No. 11336-538	:	
(P03114US)	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 5, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment of six hundred fifty-five (655) days may extend the term of this patent by too many days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred twenty-six (626) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is six hundred fifty-five (655) days.

The Office initially determined a patent term adjustment of six hundred fifty-five (655) days based on an adjustment for PTO delay of seven hundred forty-seven (747) days pursuant to 37 C.F.R. § 1.702(a)(1), reduced by ninety-two (92) of applicant delay pursuant to 37 C.F.R. 1.704(b).

37 C.F.R. § 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant

> shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.;

Applicant should have been assessed additional delay of twenty-nine (29) days pursuant to 37 C.F.R. § 1.704(b). Applicant filed a Request for Continued Examination ("RCE") and Amendment on October 31, 2007, in response to a final Office action mailed July 2, 2007. This is a period of applicant delay of twenty-nine (29) days (beginning on October 3, 2007 and ending on October 31, 2007).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred twenty-six (626) days** ((747 days of PTO delay, reduced by 121 (4+88+29)) days of applicant delay), subject to any terminal disclaimer.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

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

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 10/606623			
Application Filing Date:	06/25/2003	PTO Delay (PTO):	747
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	626
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	05/19/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
41	12/27/2007	MAIL NOTICE OF ALLOWANCE			
40	12/22/2007	ISSUE REVISION COMPLETED			
39	12/22/2007	DOCUMENT VERIFICATION			
38	12/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/10/2007	NOTICE OF ALLOWABILITY			
36	11/17/2007	DATE FORWARDED TO EXAMINER			
35	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	11/17/2007	DATE FORWARDED TO EXAMINER			
33	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	11/17/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	10/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	07/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	06/25/2007	FINAL REJECTION			
27	03/22/2007	DATE FORWARDED TO EXAMINER			
26	03/09/2007	RESPONSE AFTER NON-FINAL ACTION		88	23
25	03/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	09/11/2006	MAIL NON-FINAL REJECTION	747		-1
22	09/07/2006	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

21	03/10/2005	CONSIDERED			
20	07/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	03/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/10/2005	REFERENCE CAPTURE ON IDS			
15	03/29/2005	PRELIMINARY AMENDMENT			
14	02/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	07/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	03/25/2004	APPLICATION RETURN FROM OIPE			
10	03/25/2004	APPLICATION RETURN TO OIPE			
9	03/25/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/25/2004	APPLICATION IS NOW COMPLETE			
7	02/09/2004	ADDITIONAL APPLICATION FILING FEES		4	5
6	02/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/05/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/28/2003	CASE CLASSIFIED BY OIPE			
3	08/28/2003	CLEARED BY OIPE CSR			
2	08/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Shawn Oberst	: DECISION ON REQUEST FOR
Patent Number	: 7653936	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,624	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1617** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHRISTENSEN OCONNOR JOHNSON KINDNESS
1420 FIFTH AVE
SUITE 2800
SEATTLE WA 98101-2347

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Dalia, et al.	:	DECISION ON PETITION
Application No. 10/606,626	:	
Filed: June 25, 2003	:	

This is a decision on the "PETITION TO ACCEPT SUBSTITUTE DECLARATION", filed December 29, 2003, which is being treated as a petition under 37 CFR 1.182.

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

On June 25, 2003, petitioner filed the above-identified application, together with application no. 10/606,991. However, the declarations for each applications were inadvertently misfiled in the other application as a result of applicants' filing error.

Receipt of the $130 petition fee is acknowledged.

A corrected filing receipt is enclosed.

The matter is being forwarded to Group Art Unit 2186 for docketing and examination.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of :
Spiros Liras et al. :
Application No. 10/606,630 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. PC10085C :

This is a decision on the petition, filed June 30, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed October 22, 2004. Accordingly, a Notice of Abandonment was mailed June 6, 2005.

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), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(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 require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of October 22, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

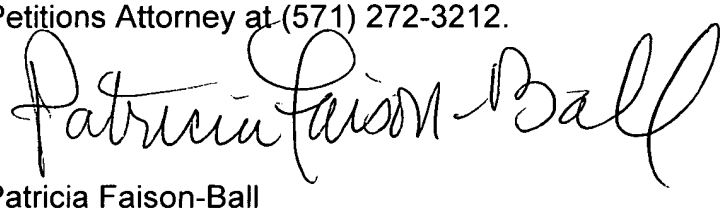
Petitioner must submit a proper reply to the final Office action mailed on October 22, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

By FAX: (571) 273-8300
ATTN: Office of Petitions

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Lionel Jeannin et al
Application No. 10/606,634
Filed: June 26, 2003
For: INJECTOR FOR A FLEXIBLE IMPLANT

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed February 9, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center AU 3738 for examination in due course.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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530 VIRGINIA ROAD
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CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
Bianchi, et al.
Application No. 10/606,655
Filed: June 26, 2003
Attorney Docket No. 2797.1002-007
For: ARCHITECTURE FOR SIGNAL DISTRIBUTION IN WIRELESS DATA NETWORKS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed November 5, 2003 (certificate of mailing date September 29, 2003), requesting, in effect, withdrawal of the September 12, 2003 Notice to File Missing Parts of Nonprovisional Application (Notice), insofar as it alleges that Figure 6 was omitted on filing.

The application was deposited on June 26, 2003. On September 12, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that drawing figure 6 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figure 6 be accorded a filing date of June 26, 2003 on the basis that 7 sheets of drawing figures, including drawing figure 6, were received in the Patent and Trademark Office (PTO) on June 26, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 26, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings. The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures were filed on June 26, 2003. MPEP 503. A review of the image of the original filed application reveals that 7 sheets of drawings, including one containing figure 6, are present.

Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 08-0380.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of June 26, 2003 and the mailing of a corrected filing receipt. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/9/04

2 Serial/Patent # 10/606,655

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	?	11/5/03	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 8 -- 0 3 8 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Allegedly omitted drug fg. was here from day 1.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Shirene Willis TITLE: Pet Atty

SIGNATURE: E. Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

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APPROVED: Alice Kelly DATE: 1/12/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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FORM PTO 1577
(01/90)

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OFFICE OF PETITIONS

In re Application of	:	
Maria Adamzyk, et al.	:	
Application No. 10/606,675	:	DECISION GRANTING
Filed: June 26, 2003	:	PETITION
Attorney Docket No. 9400-26	:	

This is a decision on the petition filed September 24, 2004, requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded date of June 27, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on June 26, 2003 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV353608431US bears no "date-in," it also includes a USPS receipt date stamp of June 26, 2003. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is June 26, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the USPS receipt date stamp, it is confirmed that the package bearing Express Mail label No. EV353608431US was accepted at the USPS on June 26, 2003, and the filing date of the application is accorded such.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to June 26, 2003.** Thereafter, the application file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Crowder et al.	:	
Application No. 10/606,676	:	DECISION GRANTING PETITION
Filed: 26 June, 2003	:	
Atty Dckt No. 9336-9	:	

This is a decision in reference to the petition filed on 16 October, 2003, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 26 June, 2003, rather than the currently-accorded filing date of 27 June, 2003.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail service on 22 December, 2003. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 22 December, 2003, petitioners supplied, with the present petition, a copy of Express Mail Customer Label No. EV353611696US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file).

Although the pickup date on the copy of the Express Mail Label provided has not been completed, the Express Mail Label bears an official USPS postmark dated 26 June, 2003. Additionally, petitioners provided a copy of a printout from the USPS Internet Track & Confirm Database, revealing that this Express Mail Label No. was accepted by the USPS on 26 June, 2003.

In view of the above, the petition is granted. No petition fee is required.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 26 June, 2003, not 27 June, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Timothy M. Crowder et al
Application No. 10/606,676
Filed: June 26, 2003
Attorney Docket No. 9336-9

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed March 28, 2005, which is being treated under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded filing date of June 27, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 26, 2003, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EV353611696US. However, while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a postal receipt stamp dated "June 26, 2003," although the City and the State where the package was accepted are not legible. In further support, the petition is accompanied by a copy of the USPS Track/Confirm system information showing that the package in question bearing the same Express Mail number found on the utility patent application transmittal accompanying the original application papers located in the official file, was accepted on June 26, 2003.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on June 26 ,2003. Accordingly, the instant application is entitled to a filing date of June 26, 2003 and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 3743 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Raleigh, NC 27627

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OFFICE OF PETITIONS

In re Application of :
Mahony et al. :
Application No. 10/606,677 :
Filed: June 26, 2003 :
Attorney Docket No. 9400-7 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 21, 2003, requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded filing date of June 27, 2003.

Petitioner alleges that the application was deposited in Express Mail service on June 26, 2003. Petitioner did not provide a copy of the Express Mail Label with the present petition. The Express Mail label No. EV353609750US was placed on the original application papers located in the official file. In support of petitioner's allegation, petitioner submitted a copy of a computer printout from the United States Postal Service Track and Confirm Database. The printout indicated that the USPS accepted a package bearing Express Mail label No. EV353609750US on June 26, 2003, at 5:29 pm in Raleigh, NC 27612.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to June 26, 2003.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Crowder, et al.
Application No. 10/606,678
Filed: June 27, 2003
Attorney Docket No. 9336-3
For: DRY POWDER DOSE FILLING SYSTEMS AND RELATED METHODS

: DECISION DISMISSING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed October 16, 2003 (certificate of mailing date October 14, 2003), requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded filing date of June 27, 2003.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on June 26, 2003, pursuant to the requirements of 37 CFR 1.10.

Unfortunately, the evidence to prove the June 26, 2003 filing is missing from the petition. Only the two page petition is present in the application file. The undersigned cannot properly render a decision until (at least) the copy of the Express Mail Pickup Service statement and the Track and Confirm statement, both referenced in the petition, are re-submitted.

Accordingly, the petition is dismissed and the filing date remains July 27, 2003. No petition fee has been or will be charged in connection with this matter.

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
Attn: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
Attn: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Crowder, et al.
Application No. 10/606,678
Filed: June 27, 2003
Attorney Docket No. 9336-3
For: DRY POWDER DOSE FILLING SYSTEMS AND RELATED METHODS

: DECISION GRANTING
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.10(c), filed February 23, 2004 (certificate of mailing date February 20, 2004), requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded filing date of June 27, 2003.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on June 27, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV353611705US showing no "date-in", but showing a USPS date stamp of June 26, 2003. The same Express Mail label number is listed on the original transmittal letter found in the application file. In addition, petitioners have submitted a printout from the USPS Shipping Center Track and Confirm website that indicates that a package bearing the mailing label of EV353611705US was accepted at the Raleigh, North Carolina processing center on June 26, 2003.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV353611705US was deposited with the USPS as Express Mail on June 26, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **June 26, 2003**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 07/15/2010

Applicant	: Stephen D. Pacetti	: DECISION ON REQUEST FOR
Patent Number	: 7645504	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/606,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 37428
RALEIGH NC 27627

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APR 05 2004

OFFICE OF PETITIONS

In re Application of	:
Roddis et al.	: DECISION DISMISSING
Application No. 10/606,758	: PETITION AS MOOT
Filed: 26 June, 2003	:
Attorney Dkt No. 9052-167	:

This is a decision on the petition, filed under 37 CFR 1.10(c) on 26 January, 2004, requesting that the above-identified application be accorded a filing date of 26 June, 2003.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 26 June, 2003.

As the application has been accorded a filing date of 26 June, 2003, the present petition is unnecessary and will be dismissed as involving a moot issue.

A replacement Filing Receipt is enclosed for petitioner's convenience.

No petition fee is due and none has been charged.

The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of :
Yong Min Ha et al :
Application No. 10/606,768 : ON PETITION
Filed: June 23, 2003 :
Attorney Docket No. 049128-5118

This is a decision on the petition, filed January 27, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2005 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 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5/16/2008**

TO SPE OF : ART UNIT **1600 (1638)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,256,329**

Attn: Elizabeth McElwain

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

***Ok to enter changes to claims as req. in COCIN?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

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:

OK to enter changes, which are directed to form and do not change what is claimed. EW

1638

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

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Tertius E. Dreyer :
Application Number: 10/606783 : ON PETITION
Filing Date: 06/27/2003 :
Attorney Docket Number: 4000-3 :
:

This is a decision in reference to the paper entitled "PETITION TO REVIVE ABANDONED PATENT APPLICATION," which, in view of petitioner's statements therein, is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 10 May, 2006, for failure to timely submit a proper reply to the final Office action mailed on 10 February, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 21 May, 2007.

Petitioner's counsel states:

> After a final office action was issued on February 10, 2006, a telephone interview was conducted with Primary Examiner Douglas Hess in early May of 2006. During the interview, several amendments were proposed to the Examiner. After consideration, Examiner Hess telephoned the undersigned indicating that he would allow the application once those amendments were filed in a formal amendment and that there was no need to file an RCE. That amendment was filed on May 9, 2006 and can be seen in the Public PAIR system.

Petitioner essentially asserts that the examiner promised to allow the application based on the after-final amendment filed on

9 May, 2006. In support, petitioner has further provided a facsimile copy of a proposed Notice of Allowability furnished by the examiner as evidence of the examiner's intent to allow the application.

Petitioner's argument has been considered, but is not persuasive.

37 CFR 1.135 states, in pertinent part.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Further, the Office action mailed on 10 February, 2006, states that a shortened statutory period for reply is set to expire 3 months … from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

37 CFR 1.2 states that the action of the U.S. Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. Moreover 37 CFR 1.116 is manifest that the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135.

The showing of record is that petitioners did not timely file a proper reply to the final Office action mailed on 10 February, 2006. To this end, the amendment filed on 9 May, 2006, was determined by the examiner not to place the application in condition for allowance, as indicated on the Advisory Action

mailed on 16 May, 2007. As such, the application became abandoned as a matter of law for failure to timely and properly reply to the final Office action mailed on 10 February, 2006.

Furthermore, with regard to petitioner's assertion that the examiner agreed that no action was required on the part of petitioner to prevent the application from becoming abandoned, the showing of record does not support that contention: There is simply no evidence that petitioners timely filed a proper amendment in response to the final Office action mailed on 10 February, 2006.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1] The rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, Request for Continued Examination and submission under 37 CFR 1.114, or continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the period for reply to the final Office action, and not because of any error on the part of the Office.

Further, the official written record contains no indication that the examiner had agreed that the application was allowable based on the amendment filed on 9 May, 2006. The fact that the examiner faxed a courtesy copy of a Notice of Allowability, which is not part of the official record, moreover, does not indicate in itself that the examiner intended to allow the application without further action by applicants. The facsimile cover page from the examiner states that no Notice of Allowance has been mailed. Rather, the showing of record suggests that the examiner intended to mail a Notice of Allowance *upon receipt of a timely and proper amendment*.

In summary, to the extent that petitioner's counsel believed that the examiner had agreed that no further action was needed to avoid abandonment of the application, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or

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[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[2]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[3] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[4]

As such, the showing of record is that the abandonment resulted from the failure of petitioners to file a timely and proper response to the final Office action, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

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

[4] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARLINGTON VA 22203

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Tertius F. Dreyer :
Application Number: 10/606783 :
Filing Date: 06/27/2003 :
Attorney Docket Number: 4000-3 :
:

ON PETITION

This is a decision in reference to the paper entitled "RENEWED PETITION TO REVIVE ABANDONED PATENT APPLICATION UNDER RULE 181 AND PETITION UNDER RULE 137(A) TO REIVE AN UNAVOIDABLE ABANDONED APPLICATION," filed on September 12, 2007, which is treated as a petition under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **dismissed**.

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

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for 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(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 37 CFR 1.137(a) was unavoidable; and

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

This application became abandoned on May 11, 2006, for failure to timely submit a proper reply to the final Office action mailed on February 10, 2006, which set a three (3) month shortened statutory period for reply. On May 9, 2006, an amendment after final rejection was filed. On May 16, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the amendment failed to place the application in condition for allowance. Notice of Abandonment was mailed on May 21, 2007. The petition filed on June 28, 2007, to withdraw the holding of abandonment was dismissed on August 28, 2007.

Petitioner's counsel avers that the delay was unavoidable because petitioners received a faxed copy of a Notice of Allowance from the examiner stating the case "would not go abandoned." Petitioner asserts he relied upon this communication from the examiner.

At the outset, the petition lacks the reply required by 37 CFR 1.137(a)(1). The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed with the petition on June 28, 2007, does not place the case in *prima facie* condition for allowance.

Any renewed petition must be accompanied by a proper reply to the final Office action.

With regard to 37 CFR 1.137(b)(3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] 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

[2] 35 U.S.C. § 133.

> 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.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

The gravamen of petitioner's argument, that he relied upon the "draft" Notice of Allowability and faxed statement of the examiner that the case would not go abandoned, has been carefully considered, but is not persuasive.

In this regard, the showing of record is that the examiner *intended*, at the time the facsimile transmission dated August 1, 2006, was sent to petitioner, to allow the application, but subsequently determined that the amendment filed in response to the final rejection did not place the application in condition for allowance.

Petitioner is reminded that it is the duty of the applicant to take proper measures to ~~maintain the~~ pendency of petitioner's application. When a final Office action has been mailed, as here, the only appropriate response is an amendment which *prima facie* places the application in condition for allowance, a continuing application, a Request for Continued Examination and the required submission under 37 CFR 1.114, or a Notice of Appeal.

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[3] 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).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In this instance, applicant filed an amendment after final rejection, but the amendment was ultimately determined not to place the application in condition for allowance. While the Advisory Action was not mailed until after the time period for reply to the final Office action had expired, petitioner may not rely upon non-receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.[6]

Moreover, abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[7] The rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, Request for Continued Examination and submission under 37 CFR 1.114, or continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the period for reply to the final Office action, and not because of any error on the part of the Office.

To the extent that petitioner relied on the examiner's assurances that a Notice of Allowance would be mailed, while such reliance is certainly unfortunate, it does not constitute unavoidable delay. To this end, MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[8] Additionally, 37 CFR 1.2 states that the action of the U.S. Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or

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[6] See MPEP 711.03(c)(III)(C)(2).

[7] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

[8] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

doubt. In this regard, while the examiner's facsimile cover sheet stated that the time period "will start upon official mailing of this Notice of Allowance" no Notice of Allowance was actually mailed.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[9] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[10]

In summary, while the Office is mindful of the circumstances surrounding this application, the showing of record is that petitioner did not exercise a level of care consistent with a reasonably prudent person in relation to his or her most important business. Accordingly, the showing of record does not rise to the level of unavoidable delay.

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides 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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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

---

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

[10] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By FAX: (571)272-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Form PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

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

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

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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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JUL 21 2008

OFFICE OF PETITIONS

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

In re Application of :
Tertius F. DREYER :
Application No. 10/606,783 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 4000-3 :

This is a decision on the petition under 37 CFR 1.181 and 1.137(a), filed February 1, 2008, for supervisory review of the decision mailed January 17, 2008 and to revive the above-identified application. The petition is titled as a petition under 37 CFR 1.181 and also under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **DISMISSED.**
The petition under 37 CFR 1.137(a) is **GRANTED.**

Petition under 37 CFR 1.181

A review of the application, and in particular the decision mailed January 17, 2008, has been made. The decision set forth the facts of the case and held that the petition filed June 28, 2007 was insufficient since it did not include a proper reply to the final office action and therefore the petition was dismissed.

As explained in the decision mailed January 17, 2008, abandonment occurs as a matter of law. On Page 4 of the decision, the Petitions Attorney went on to state:

> Only the filing of a Notice of Appeal, Request for Continued Examination and submission under 37 CFR 1.114, or continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the period for

reply to the final Office action, and not because of any error on the part of the Office.

No irregularities are seen in the decision based upon 37 CFR 1.181 and thus it is considered to be proper.

Petition under 37 CFR 1.137(a)

The petition under 37 CFR 1.137 (a) is granted.

DECISION

The petition under 37 CFR 1.181 is hereby dismissed. The petition under 37 CFR 1.137(a) is granted. This application is being forwarded to Technology Center 3600 for entry of the amendment filed June 28, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3687.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,476,398 B1
Ser. No. : 10/606,796
Inventor(s) : Doillon et al.
Issued : Jan. 13, 2009
Title : CORNEAL IMPLANT AND USES THEREOF
Docket No. : 14363

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: (571) 273-0025
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 308-8309

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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DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,476,398 :
Issue Date: January 13, 2009 :
Application No. 10/606,796 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 14363 :

This is a decision on the Renewed Request For Certificate Of Correction, filed August 19, 2009, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of a second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was previously filed on April 23, 2009.

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

Petitioner urges that the present Petition was submitted to correct the omission of a second assignee's name on the previously submitted PTOL-85B and such error was an inadvertent mistake. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's 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), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the $30.00 government fee will be applied towards the $130.00 processing fee being charged as authorized. 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 previous submitted on April 23, 2009.

Inquiries related this communication should be directed to the undersigned 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. 7,476,398.

Cheryl Gibson-Baylor
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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LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

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OFFICE OF PETITIONS

In re Application of Kress et al. :
Application No. **10/606,809** : Decision on Petition
Filing Date: June 26, 2003 :
Attorney Docket No. 16018.900100 :

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2006, to withdraw the holding of abandonment. This is also a decision on the petitions filed in the alternative under 37 CFR 1.137(a) and 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

A non-final Office action was mailed on August 24, 2005.

Petitioner filed a reply to the Office action and request for a one-month extension of time on November 30, 2005.

All the papers filed November 30, 2005, listed the application number as 10/609,809, rather than 10/606,809. As a result, the papers were not matched with the correct file.

The instant petition was filed March 8, 2006. All the papers filed on March 8, 2006, list the application number as 10/609,809, rather than 10/606,809. As a result, the papers were not matched with the correct file.

A Notice of Abandonment was mailed on April 4, 2006.

During a review of the petition, the Office discovered the petition had been placed in the incorrect file.

The papers filed November 20, 2005, and March 8, 2006, have now been matched with the correct file.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.

(2) The papers contained sufficient information for the Office to determine the correct application number.

The papers filed on November 30, 2005, meet the criteria above.

Additionally, the extension of time fee submitted November 30, 2005, is considered to have been timely paid since it was timely received but applied to another application. The fee will be appropriately applied and credited to the instant application.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition under 37 CFR 1.181 to withdraw the holding of abandonment has been granted, the petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b) are dismissed as moot. A fee has not been charged for either petition.

Technology Center Art Unit 3732 will be informed of the instant decision and the application, including the papers filed November 30, 2005, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/07/2010

Applicant	: Sundararajan Sriram	: DECISION ON REQUEST FOR
Patent Number	: 7630408	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/606,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Christopher Bieniarz et al :
Application No. 10/606,821 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 6038.US.C4 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 22 2005, 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 May 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 15, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-

identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 1625.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WOOD PHILLIPS KATZ CLARK & MORTIMER
CITICORP CENTER, SUITE 3800
500 WEST MADISON STREET
CHICAGO, IL 60661-2511

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ALEXANDRIA, VA 22313-1450
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MAR 11 2005

Technology Center 2100

Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington DC 20004

In re Application of: Yoshimura et al.
Application No. 10/606,831
Filed: June 27, 2003
Atty Docket No.: 041465-5034-03
For: INFORMATION RECORD MEDIUM AND APPARATUS FOR RECORDING THE SAME

DECISION ON PETITION FOR AN OBJECTIVE EXAMINER

This is a decision on the petition filed June 27, 2003 requesting assignment of the above noted continuation application to "an Objective Examiner." The petition is being considered under 37 CFR § 1.181 as a request to invoke supervisory authority. Petitioners base their request on remarks and comments the examiner made in Office communications in the parent application 08/820,254 (filing date March 18, 1997). The Office apologizes for the delay in responding to petitioners' request.

Applicants filed a preliminary amendment in the instant application on June 27, 2003 that canceled claims 1-4 and added new claims 5-19. The new claims are directed to an "information record medium," "recording apparatus," and "recording method" involving a video signal. The Office decides the proper assignment of every pending application based upon the U.S. Patent Classification System. Applicants' newly added claims have been reviewed and the Office has determined that based upon the claimed invention's utility, the proper assignment of the currently pending application is in a different class than the parent application's. As a result, the application has been transferred to a different art unit to handle the examination.

The petition is dismissed as **MOOT**. The application has been assigned to a new examiner based upon the claimed invention's utility.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3567

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : January 16, 2007

Patent No. :7,141,196
Inventor(s) :Michael J. Sullivan et al.
Issued :November 28, 2006
Title :METHOD OF MANUFACTURING A GOLF BALL HAVING ONE OR MORE
:LAYERS
Doc./File No. :20002.0319

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.

Applicants' proposed request to change the Title of the Invention to reflect what appears in the original specification is not warranted since the changes as presented in the Letters Patent are the result of a decision made by the examiner at time of allowance and is therefore considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 305-9380 ext. 123

Edward A. Pennington
Bingham McCutchen LLP
3000 K Street , NW Suite 300

CBN/arg

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United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

THORPE NORTH & WESTERN
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

In re Application of :
Yunoh Jung et al :
Application No. 10/606,866 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 20862.B.NP :

This is a decision on the petition, filed February 8, 2006, 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 January 31, 2006, 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]

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

---

[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).

The examiner of Technology Center AU 3732 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
THORPE NORTH & WESTERN
P.O. BOX 1219
SANDY, UTAH 84091-1219

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20070329

DATE : 01/13/07

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/606891** Patent No.: **7061785**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: SEE ATTACHED

FOR **SPE** — **Art Unit** 2824

UNITED STATES PATENT AND TRADEMARK OFFICE

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VICTORIA DONNELLY
PO BOX 24001
HAZELDEAN RPO
KANATA, ON K2M 2C3
CANADA

Mail Date: 04/20/2010

Applicant	: Gordon Bruce Scarth	: DECISION ON REQUEST FOR
Patent Number	: 7580998	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,896	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1119** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/06

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/606,911 Patent No.: 7025847

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The changes to col. 13, lines 35 and 36 and to col. 23, line 12 have not been approved. At col. 13, the superscripts appear to be correct and the proposed changes to col. 23, line 12 change the scope of the claim.

CHRIS FIORILLA
SUPERVISORY PATENT EXAMINER 1734
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : April 28, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Ryan E. Marx et al
Application No. :10/606,916
Filed :June 26, 2003

The above-identified application has been assigned Patent No. 6,887,433 and an issue date of May 3, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 3, 2005:

"All reference to Patent No. 6,887,433 to Ryan E. Marx et al of Minnesota for DEVICE FOR THE CONTINUOUS PROCESS FOR THE PRODUCTION OF CONTROLLED ARCHITECTURE MATERIALS appearing in the Official Gazette of May 3, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Ryan E. Marx et al :
Application No. 10/606,916 :
Filed: June 26, 2003 :
Attorney Docket No. 58189US002 :

ON PETITION

This is a decision on the petition, filed April 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1713 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

5-18-07

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

Patent No. :7,166,256 B2
Ser. No. :10/606,937
Inventor(s) : Jurgen Lindigkeit
Issued : January 23,2007
Title : NONPREIOUS DENTAL FCASTING ALLOY
Docket No. : 403692

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 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105
Jeremy M. Jay
Leydig, Voit & Mayer
700 Thirteenth Street, NW., Suite300
Washington, DC 20005-3960

ej

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700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

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JUL 24 2007

OFFICE OF PETITIONS

In re Patent No. 7,166,256 :
Application No. 10/606,937 :
Filed: June 27, 2003 : ON PETITION
Issued: January 23, 2007 :
Attorney Docket No. 402692/HOEGER :

This is a decision on the petition filed June 25, 2007, 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**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-06

Paper No: __

DAVID L. TINGEY
LAW OFFICE OF DAVID L. TINGEY
15 SOUTH GRADY WAY SUITE 336
RENTON WA 98055

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Morelock, et al.	:	
Application No. 10/606,975	:	DECISION
Filing Date: 24 June, 2003	:	
Attorney Docket No.: MO-03-01	:	

This is a decision on the petition filed on 3 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 23 August, 2005, with reply due absent extension of time on or before 23 November, 2005;
- on 23 November, 2005, Petitioner submitted an amendment after final, which is not of right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 8 December, 2005;
- the application went abandoned after midnight 23 November, 2005;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the Office mailed a Notice of Abandonment on 19 April, 2006;

- on 3 May, 2006, Petitioner filed the instant petition (with fee) and pointed to the reply in the form of an amendment after final filed on 6 March, 2006, which the Examiner has indicated he will enter, and Petitioner made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; 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]

---

[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).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. 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.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] 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).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt,[8] 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

---

(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] 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.

[5] 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).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to the Examiner in Technology Center 3600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Daniel G. Stearns	: DECISION ON REQUEST FOR
Patent Number	: 7616985	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/606,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Myers Bigel Sibley & Sajovec
P. O. Box 37428
Raleigh, NC 27627

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward J. Hubbell	:	
Application No. 10/606,980	:	DECISION GRANTING
Filed: June 26, 2003	:	PETITION
Attorney Docket No. 5308-260	:	

This is a decision on the petition filed February 25, 2005, requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded date of June 27, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on June 26, 2003 pursuant to 37 CFR 1.10. In support, petitioner provides a copy of the Express Mail label receipt no. EV353610421US. The same Express Mail receipt number was referred to in the copy of the application transmittal letter submitted with the instant petition. It is noted that while the "date-in" of the Express Mail label is left blank, it includes USPS receipt date stamp of June 26, 2003. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is June 26, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. That is the date that verifies the package in question was actually mailed. The evidence is convincing that the application was deposited as Express Mail with the USPS on June 26, 2003.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to June 26, 2003.** Thereafter, the application file will be forwarded to Technology Center 3700 for review of the amendment filed March 7, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 20, 2006

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,945844 Appl. 10/606980

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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:

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700

SPE

3723
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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1420 FIFTH AVE
SUITE 2800
SEATTLE WA 98101-2347

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Dalia, et al. : DECISION ON PETITION
Application No. 10/606,991 :
Filed: June 25, 2003 :

This is a decision on the "PETITION TO ACCEPT SUBSTITUTE DECLARATION", filed December 29, 2003, which is being treated as a petition under 37 CFR 1.182.

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

On June 25, 2003, petitioner filed the above-identified application, together with application no. 10/606,626. However, the declarations for each applications were inadvertently misfiled in the other application as a result of applicants' filing error.

Receipt of the $130 petition fee is acknowledged.

A corrected filing receipt is enclosed.

The matter is being forwarded to Group Art Unit 2194 for docketing and examination.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,992	06/25/2003	1762	858	356828001US1	3	26	1

CONFIRMATION NO. 4507

CORRECTED FILING RECEIPT

OC000000011558551

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 12/23/2003

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Dan Daeweon Cheong, City of Mississauga, CANADA;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/747,315 12/22/2000 PAT 6,610,352

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2003

Projected Publication Date: 02/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Multiple source deposition process

Preliminary Class

427

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of :
KUMBALIMUTT et al. :
Application No. 10/606,999 : ON APPLICATION FOR
Filed: June 26, 2003 : PATENT TERM ADJUSTMENT
Atty. Docket No. 418268786US :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)" filed January 20, 2009. Applicant requests that the determination of patent term adjustment be corrected from 1215 days to 1670 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. 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 three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases

for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

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 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
Smith & Nephew, Inc.
1450 Brooks Road
Memphis, TN 38116

Mail Date: 04/21/2010

Applicant	: Gene Edward Austin	: DECISION ON REQUEST FOR
Patent Number	: 7608074	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/607,010	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Masami Tomita et al :
Application No. 10/607,014 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 239544US2 :

This is a decision on the petition filed December 12, 2005, which is being treated as a petition under 37 CFR 1.313(a), to withdraw the above-identified application from issue.

The petition is **DISMISSED AS MOOT**.

A review of the file record discloses that a Notice of Allowance was mailed September 12, 2005,with the issue fee being due on or before December 12, 2005. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of a RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. Note MPEP 706.07(h)(IX).

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-3210.

The matter is being referred to Technology Center AU 1756 for appropriate processing of the RCE filed December 12, 2005, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 033005

HENRY ROHRIG
P.O. BOX 2159
TOLUCA LAKE, CA 91610

MAY 17 2005

In re Application of:
HENRY ROHRIG
Serial No.: 10/607,019
Filed: June 25, 2003
For: **TRUCK ALIGNMENT SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 11, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section III, Applicant's Health Is Poor: and Section IV, Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section III, must include evidence showing that the applicant is in poor health, and Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from applicant, Henry Rohrig stating that he is sixty-five (65) years of age or more, a copy of his birth certificate and a statement of poor health from applicant's doctor.

Accordingly, the petition is GRANTED.

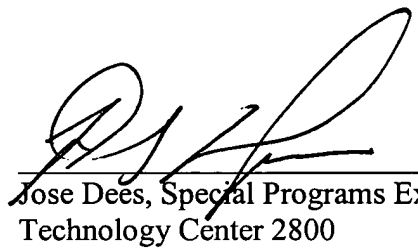
If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.



Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
Brian Hill et al
Application No. 10/607,020
Filed: June 26, 2003
Attorney Docket No.
60001.0245US01/301752.01

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 2, 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 2174 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
Brian Hill et al
Application No. 10/607,020
Filed: June 26, 2003
Attorney Docket No.
60001.0245US01/301752.01

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 8, 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 May 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2174 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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CARLSON, GASKEY & OLDS, P.C.
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SUITE 350
BIRMINGHAM MI 48009

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OFFICE OF PETITIONS

In re Patent No. 6,906,537 :
Issued: June 14, 2005 :
Application No. 10/607,022 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket Number: 670101-069:H2614-DC :

This is a decision on the petition, filed October 4, 2005, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent. The petition is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee was inadvertently not 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 name of the second assignee on the front 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.

A request for certificate of correction (and fee) as required by 3.81(b) was filed July 5, 2005 and dismissed in a decision mailed August 9, 2005 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that Engineered Fabrics Corporation is also an 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 issue.

The fee for the certificate of correction had been previously posted. The petition fee in the amount of $130.00 has been properly charged to deposit account no. 50-1482.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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RICHMOND, HITCHCOCK,
FISH & DOLLAR
P.O. Box 2443
Bartlesville OK 74005

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OFFICE OF PETITIONS

In re Application of
Edward L. Sughure et al.
Application No. 10/607,043
Filed: June 26, 2003
Attorney Docket No. 34035US

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 23, 2003 under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed September 15, 2003.

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 26, 2003, naming Edward L. Sughure, Bobby G. Cockrell, Glenn W. Dodwell and Brent J. Bertus without a signed declaration.

Accordingly, on September 15, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on December 23, 2003, the present petition was filed. Petitioners assert that the Assignment and Declaration, Power of Attorney and Petition documents were given to inventors Sughure, Cockrell and Dodwell each of whom has executed the declaration and the declaration was submitted along with this petition. Petitioners further assert that the Assignment and Declaration, Power of Attorney and Petition documents were personally given to inventor Bertus but that the signed documents have not been returned. Petitioners claim that Mr. Bertus specifically told inventor Sughure that he (inventor Bertus), "was no longer interested in participating in any patent matters on behalf of ConocoPhillips Company related to this invention".

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that a complete copy of the application (specification, including claims, drawings, if any, and the declaration) was given to the non-signing inventor. The statement made by Ms. Lynda S. Jolly (attorney of record) is that the "Assignment and Declaration, Power of Attorney and Petition" was given to Mr. Bertus at lunch but no proof that the complete application was given to him has been provided. Thus, there is no evidence to show that inventor Bertus had the benefit of seeing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details. Please be reminded that it is the complete application that is in issue.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made verbally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts. The statement made in the petition is that the verbal refusal made by Mr. Bertus was made to inventor Sughure. In that case, an affidavit from Mr. Sughure would be required as he would be the person with first hand knowledge of the details concerning the refusal.

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

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

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Edward L. Sughure et al.
Application No. 10/607,043
Filed: June 26, 2003
Attorney Docket No. 34035US

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed June 14, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on June 26, 2003, naming Edward L. Sughure, Bobby G. Cockrell, Glenn W. Dodwell and Brent J. Bertus without a signed declaration. Accordingly, on September 15, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on December 23, 2003, a petition under 37 CFR 1.47(a) was filed but was dismissed in a decision mailed March 16, 2004. This renewed petition is filed with a request for a one month extension of time and copies of a letter mailed to the non-signing inventor, Brent J. Bertus. The letter mailed May 14, 2004, included a copy of the complete application and proof of delivery to Mr. Bertus.

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

The petition bears proof that by his actions, Mr. Bertus refuses to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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BRENT J. BERTUS
1318 SWAN DRIVE
BARTLESVILLE, OK 74005

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of
Edward L. Sughure et al.
Application No. 10/607,043
Filed: June 26, 2003
Title of Invention:
DESULFERIZATION WITH OCTANE ENHANCEMENT

Dear Mr. Bertus:

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 Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

RICHMOND, HITCHCOCK,
FISH & DOLLAR
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BARTLESVILLE OK 74005

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JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 Seventh Street, N.W.
Washington DC 20004

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/607,052 :
Filed: 27 June, 2003 :
Attorney Docket No. P68950USO :
:
: DECISION GRANTING PETITION
In re Application of :
Hyeok Kang :
Application No. 10/470,609 :
Filed: 27 June, 2003 :
Attorney Docket No. P68942USO :

This is a decision on the petition filed on 7 April, 2004, which is treated as a petition under 37 CFR 1.53 to accord the application papers filed with attorney docket No. P68942USO a filing date of 27 June, 2003, and a petition under 37 CFR 1.182 to correct Office records.

The petition is granted.

Petitioner asserts that the above-identified applications, one naming Lee et al. as the inventive entity, and one naming Hyeok Kang as the inventive entity, were both filed in the USPTO on 27 June, 2003. The two applications, however, were given the same Application Number, No. 10/607,052, as indicated on the itemized return receipt postcards for each application, and the application papers for the application designated Attorney Docket No. P68942USO were subsequently lost in the U.S. Patent and Trademark Office.

In support, petitioners present two return postcards, both bearing a USPTO "Office-date" stamp dated 27 June, 2003, and Application No. 10/607,052. One postcard identifies the filing of an application entitled: METHOD FOR FABRICATING SEMICONDUCTOR

DEVICE CAPABLE OF REDUCING SEAM GENERATIONS, by Lee et al., Attorney Docket No. P68950USO, and itemizes the filing of, *inter alia*, 31 pages of specification, including claims and one page of abstract, and 11 sheets of drawings. The other postcard identifies the filing of an application entitled: FLASH MEMORY DEVICE, by Hyeok Kang, Attorney Docket No. P68942USO, and itemizes the filing of, *inter alia*, 21 pages of specification, including claims and abstract, and four (4) sheets of drawings.

The petition was also accompanied by copies of both applications. Petitioners request that both applications be accorded a filing date of 27 June, 2003, and be treated as separate applications.

A review of the official file of Application No. 10/607,052 reveals that 31 pages of specification, including the claims and one page of abstract, and 11 sheets of drawings, for the application filed by Lee et al., Attorney Docket No. P68950USO, were received and processed as the original application papers. No 21 pages of specification, including claims and one page of abstract, and four (4) sheets of drawings of the application filed by Hyeok Kang are located among the application papers received on 27 June, 2003, in the file of Application No. 10/607,052.

In view of petitioners' postcard receipt, the evidence is convincing that the application papers deposited on 27 June, 2003, included, *inter alia*, 21 pages of specification, and 4 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application entitled: FLASH MEMORY DEVICE, by Hyeok Kang, Attorney Docket No. P68942USO was complete on filing and entitled to a filing date of 27 June, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application of Hyeok Kang, Attorney Docket No. P68942USO has been assigned Application No. 10/470,609. All future correspondence regarding this application should reference this number. The application will be processed and examined using the copy of the application papers supplied with the present petition. The copy of the application papers from Application No. 10/607,052 (Lee et al.) filed with the present petition will not be used for processing or examination, but will be retained in the application file.

It is noted that the inventive entity for Application No. 10/607,052, was incorrectly listed in Office files as Hyeok Kang, Sung-Kwon Lee, and Min-Suk Lee. It is obvious that Kang is not listed on the oath or declaration intended for the application naming Sung-Kwon Lee, and Min-Suk Lee, but rather Kang is named as the sole inventor for the application now assigned No. 10/470,609. Therefore, the Office has *sua sponte* corrected the inventorship of Application No. 10/607,052 as listed in Office records.

Application No. 10/470,609 is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 27 June, 2003, using the copy of the specification, claims, and drawings supplied with the present petition.

As Application No. 10/607,052 has been allowed and the issue fee has been paid, the application will be forwarded to Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,901,089	2005-05-31	10/607,088	2003-06-26	1315-0009

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael K. Kinney/	Date (YYYY-MM-DD)	2010-02-08
Name	Michael K. Kinney	Registration Number	42740

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

In re Patent No. 6901089
Issue Date: May 31,2005
Application No. 10607088
Filed: June 26,2003
Attorney Docket No. 0E-78A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

T.D. Foster
12760 High Bluff Drive, Suite 300
San Diego, CA 92130

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APR 27 2009

OFFICE OF PETITIONS

In re Application of
Steven Charles Leisher et al.
Application No. 10/607,093
Filed: June 25, 2003
Attorney Docket No. PGW/TF-101.P.3

DECISION ON
PETITION TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 6, 2009.

The request is **APPROVED**.

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

The request was signed by Thomas D. Foster on behalf of attorney/agents associated with customer number 46251. All attorneys/agents associated with customer number 46251.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: The Potomac Group West
c/o Steve Leisher
437 S. Highway 101, Ste. 212
Solana Beach, CA 92075

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/607,093	06/25/2003	Steven Charles Leisher	PGW/TF-101.P.3

CONFIRMATION NO. 6529

POWER OF ATTORNEY NOTICE

46251
T. D. FOSTER
12760 HIGH BLUFF DRIVE, SUITE 300
SAN DIEGO, CA 92130

OC000000035671435

Date Mailed: 04/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2009.

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

/kainabinet/

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6948786	2005-09-27	10607104	2003-06-25	2245

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/cgnessler/	Date (YYYY-MM-DD)	2009-12-07
Name	Charles G. Nessler	Registration Number	27825

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

In re Patent No. 6948786
Issue Date: September 27,2005
Application No. 10607104
Filed: June 25,2003
Attorney Docket No. 2245

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 7,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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LAW OFFICE OF LEO ZUCKER
2591 DUNING DRIVE
PO BOX 1177
YORKTOWN HEIGHTS, NY 10598

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OFFICE OF PETITIONS

In re Application of :
HOGAN, Thomas B. :
Application No. 10/607,105 : DECISION ON PETITION
Filed: June 25, 2003 : TO WITHDRAW
Attorney Docket No. : 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 15, 2008.

The request is **APPROVED.**

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

The request was signed by Leo Zucker, the sole attorney of record. Leo Zucker has been withdrawn as attorney or agent of record. 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.

The application became abandoned for failure to timely reply to the office action mailed October 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

M Graves

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: THOMAS B. HOGAN
11 RED OAK LANE
FISHKILL, NY 12524

cc: MAREK LESNIEWSKI – ATTORNEY
c/o ESTATE OF T. BRADFORD HOGAN
22 PRATT COURT
COHASSET, MA 02025

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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John S. Reid
Gregory IPL, P.C.
Suite 904
601 W. Main Ave.
Spokane, WA 99201-3825

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JUL 20 2010

OFFICE OF PETITIONS

In re Patent of Hillberry et al. :
Patent No. 6,890,137 :
Issue Date: May 10, 2005 : Decision on Petition
Application No. 10/607,113 :
Filing Date: June 25, 2003 :
Attorney Docket No. DE42-003 :

This is a decision on the petition filed March 10, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued May 10, 2005. The last day of the grace period for paying the 3.5 year maintenance fee was Monday, May 11, 2009. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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 request to change the address of record should be filed. 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. A copy of a form that may be used to change the fee address of record is attached.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: PTO Form SB/47 (Fee Address Form)

PTO/SB/47 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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.

"FEE ADDRESS" INDICATION FORM

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

- OR -

Fax to:
571-273-6500

INSTRUCTIONS: The issue fee must have been paid for application(s) listed on this form. In addition, only an address represented by a Customer Number can be established as the fee address for maintenance fee purposes (hereafter, fee address). A fee address should be established when correspondence related to maintenance fees should be mailed to a different address than the correspondence address for the application. **When to check the first box below**: If you have a Customer Number to represent the fee address. **When to check the second box below**: If you have no Customer Number representing the desired fee address, in which case a completed Request for Customer Number (PTO/SB/125) must be attached to this form. For more information on Customer Numbers, see the Manual of Patent Examining Procedure (MPEP) § 403.

For the following listed application(s), please recognize as the "Fee Address" under the provisions of 37 CFR 1.363 the address associated with:

☐ Customer Number: _____

OR

☐ The attached Request for Customer Number (PTO/SB/125) form.

PATENT NUMBER (if known)	APPLICATION NUMBER

Completed by (check one):

☐ Applicant/Inventor _____ Signature

☐ Attorney or Agent of record _____ (Reg. No.) _____ Typed or printed name

☐ Assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) _____ Requester's telephone number

☐ Assignee recorded at Reel _____ Frame _____ _____ Date

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

☐ * Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.363. 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 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Mail Stop M Correspondence, 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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PO BOX 19928
ALEXANDRIA VA 22320

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Tatsuo Kobayashi :
Application No. 10/607,128 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 116378 :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.53(e)(2) - THE APPLICATION WAS COMPLETE AS FILED ON OCTOBER 14, 2003", filed July 28, 2004, which is being treated as a petition to accord the above-identified application a filing date of June 27, 2003, with page 74 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on June 27, 2003. However, on May 28, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a NonProvisional Application." Applicant was notified that the application papers had been accorded a filing date of June 27, 2003; however, page 74 of the specification appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy of page 74 of the specification. Applicant maintains that the application as originally filed included page 74. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "88 pp spec/29 claims/abstract" as enclosed, bearing a United States Patent and Trademark Office date-stamp of June 27, 2003, and lacking any notation of non- receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the petition fee will be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 27, 2003, using the application papers received in the Office on that date and page 74 of the specification as resupplied on petition filed July 28, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Toshitaka Iwago, et al. :
Application No. 10/607,129 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No.: 116194 :
:

This is a decision on the petition, filed September 29, 2005, 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 29, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2854 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice 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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Paper No.

Stephen T. Scherrer
McDermott, Will & Emery
227 West Monroe
Chicago, IL 60606-5096

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of :
William Gray, Gerald Smith, :
Carl Larkin, Lee Peart, : DECISION REFUSING STATUS
Peter Saunders, Stuart Fiske and : UNDER 37 CFR § 1.47(a)
Darren Morford :
Application No. 10/607,144 :
Filed: June 26, 2003 :
Attorney Docket No. 37355-131 :
Title: SYSTEM AND METHOD FOR :
CONDUCTING SECURE ELECTRONIC :
TRANSACTIONS :

This is a decision on the "Petition to Accept National Application Without Participation of An Inventor," filed March 19, 2004, pursuant to 37 CFR § 1.47(a)(certificate of mailing, March 16, 2004).

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 3, 2002, without an executed oath or declaration. William Gray, Gerald Smith, Carl Larkin, Lee Peart, Peter Saunders, Stuart Fiske and Darren Morford were named as joint inventors. Accordingly, on September 16, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed three declarations executed, in combination, by joint inventors Gray, Smith, Larkin, Peart, Saunders and Fiske on behalf of themselves and on behalf of non-signing joint inventor Morford; the surcharge under § 1.16(l);

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and the instant petition under § 1.47(a)(and fee). This response was made timely by an accompanying petition for a four-month extension of time for response (and fee). Applicants assert that status under § 1.47(a) is proper because inventor Morford cannot be found or reached, after diligent effort, to join in the application.

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

By declaration of Senior Legal Manager Patrice Jacobson and supporting documentary evidence, petitioner has shown that inventor Morford cannot be found or reached after diligent effort to join in the application. The petition includes payment of the petition fee.

However, the petition is not grantable because it does not satisfy requirements (2) and (4) above. The declaration submitted is not acceptable. It is not in compliance with 35 U.S.C. 115 and implementing regulations 37 CFR 1.63(a)(3) and (c)(1). The declaration does not include the citizenship, mailing address, and residence of inventor Morford. The mailing address and residence may be provided by way of a supplemental application data sheet, pursuant to 37 CFR 1.76(c)(1). However, the requirement that the declaration include the citizenship of inventor Morford is statutory; it is required pursuant to 35 U.S.C. 115. Accordingly, the requirement for inventor Morford's citizenship on the declaration may not be waived.

Furthermore, the petition does not include a statement of inventor Morford's last known address.

On renewed petition, petitioner must submit an acceptable executed declaration and provide inventor Morford's last known address.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

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Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

Stephen T. Scherrer
McDermott, Will & Emery
227 West Monroe
Chicago, IL 60606-5096

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SEP 07 2004

OFFICE OF PETITIONS

In re Application of
William Gray, Gerald Smith,
Carl Larkin, Lee Peart,
Peter Saunders, Stuart Fiske and
Darren Morford
Application No. 10/607,144
Filed: June 26, 2003
Attorney Docket No. 37355-131
Title: SYSTEM AND METHOD FOR CONDUCTING SECURE ELECTRONIC TRANSACTIONS

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is a decision on the "Request for Reconsideration of Petition under 37 CFR § 1.47(a)," filed August 25, 2004.

The petition is **DISMISSED AS MOOT**.

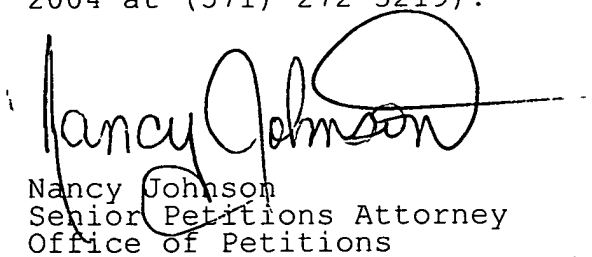
The above-identified application was filed on June 3, 2002, without an executed oath or declaration. William Gray, Gerald Smith, Carl Larkin, Lee Peart, Peter Saunders, Stuart Fiske and Darren Morford were named as joint inventors. In reply to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" mailed September 16, 2003, applicants timely filed the initial petition under § 1.47(a) for acceptance of the declaration without the signature of inventor Morford. The petition was dismissed for failure to submit an acceptable declaration and for failure to provide the last known address of inventor Morford (Decision mailed May 4, 2004).

On instant request for reconsideration, made timely by an accompanying petition and fee for extension of time within the second month, applicants replied filing a declaration executed by previously non-signing inventor Darren Morford. This declaration has been reviewed and found in compliance with 37 CFR 1.47.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309 (or on or after September 28, 2004 at (571) 272-3219).



Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Michael A. Slavin, Esq.
MCHALE & SLAVIN, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

In re application of
Garritt A. Darling et al
Application No. 10/607,160
Filed: June 24, 2003
For: BOAT HOOK ATTACHMENT

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on March 08, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Darling indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 7/26/04

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TAROLLI, SUNDHEIM, COVEL & TUMMINO L.L.P
1111 LEADER BUILDING
526 SUPERIOR AVE.
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Patent No. 6863603 :
Issued: 03/08/2005 :
Application No. 10/607173 : ON PETITION
Filed: 06/26/2003 :
Atty Dckt No. TRW(AEC)6636 :

This is a decision on the request under 37 CFR 3.81(b),[1] filed on 12 September, 2006, to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

It is noted that although the assignment document itself correctly captions the assignees' names, the Recordation Form Cover Sheet miscaptions the assignee's name as "TRW Automotive Electronics & Components GmbH & Co." However, a corrected cover sheet was submitted for recording after the issuance of the patent in accordance with MPEP 323.01 and 37 CFR 3.34.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Patton et al. :
Application No. 10/607185 :
Filing or 371(c) Date: 06/26/2003 :
Attorney Docket Number: :
83891BF-P : ON PETITION

This is a decision on the "Petition for Withdrawal of Abandonment for Failure to Receive an Office Acion," filed August 9, 2007. The petition is properly treated under 37 C.F.R. § 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 24, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on April 25, 2007. A Notice of Abandonment was mailed August 3, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3677 for re-mailing of the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

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Watov & Kipnes, PC
P.O. Box 247
Princeton Junction, NJ 08550

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Thor W. Nilsen :
Application No. 10/607,188 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 374.1.016 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 22, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight November 22, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and a Declaration along with the required $130 surcharge.

The petition is **GRANTED**.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MCKENNA LONG & ALDRIDGE
1900 K STREET, NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Sunghoe Yoon :
Application No. 10/607,207 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 8733.838.00 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 2005, 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 4, 2005 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/607,252	06/26/2003	1732	1354	SO0023 US NA	2	37	5

CONFIRMATION NO. 4978

23906
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

UPDATED FILING RECEIPT

OC000000013461743

Date Mailed: 08/06/2004

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Jing C. Chang, Boothwyn, PA;
Ray W. Miller, Kennett Square, PA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/436,082 12/23/2002

Foreign Applications

If Required, Foreign Filing License Granted: 09/16/2003

Projected Publication Date: 11/11/2004

Non-Publication Request: No

Early Publication Request: No

Title

Poly(trimethylene terephthalate) bicomponent fiber process

Preliminary Class

264

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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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INSKEEP INTELLECTUAL PROPERTY GROUP, INC.
ATTN: JAMES W. INSKEEP, ESQ.
1225 W. 190TH STREET, STE. 205
GARDENA, CA 90248

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Raymond Willis Blodgett, Jr.	:	
Application No. 10/607,288	:	ON PETITION
Filed: June 25, 2003	:	
Attorney Docket No. 18393-19	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 21, 2005, to revive the above-identified application.

In response to the Notice of Allowance and Fee(s) Due mailed March 16, 2005, petitioner hereby submits $750 for the petition to revive fee, $700 for payment of the issue fee, $300 for the publication fee, $30 for ten (10) advance soft copies, and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Change of Correspondence Address filed June 21, 2005, has been made of record.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Patent No. 6,987,830 :
Kazuyuki Kasumi :
Issue Date: January 17, 2006 : LETTER REGARDING
Application No. 10/607,312 : PATENT TERM ADJUSTMENT
Filed: June 27, 2003 :
Attorney Docket No. CV01364K1 :

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 13, 2006, notifying the Office that the PAIR system appears to indicate an incorrect number of days determined for the USPTO delay and/or for the Applicant's delay.

The request for correction of the determination of patent term adjustment (PTA) is **DISMISSED**.

On July 14, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 180 days. On January 17, 2006, the application matured into U.S. Patent No. 6,987,830, with a revised patent term adjustment of 210 days. On March 13, 2006, within two months of the issue date of the patent, patentee submitted this comment. It is noted that no fee payment accompanied this comment. Patentees state no basis for their disclosure that the revised patent term adjustment may be incorrect.

A review of the record reveals no basis for patentee's disclosure. Accordingly, no change to the patent term adjustment is being made at this time. To the extent that patentee has knowledge of a paper filed in this application warranting reduction of the patent term adjustment or other

basis for correction (i.e., ineligibility), out of good faith and candor to the Office, patentee should further respond to this letter with such knowledge.

No further action on the part of the Office is required in this patented case.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Keith E. George
McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Kanterakis, et al.
Application No. 10/607,342
Filed: June 27, 2003
Attorney Docket No. 57042-013
(GBTI65US)
For: COMMON PACKET CHANNEL
WITH FIRM HANDOFF

DECISION GRANTING
PETITION

This is a decision on the petition entitled, "PETITION AND RESPONSE TO NOTICE OF MISSING PARTS OF APPLICATION", filed November 25, 2003, requesting, in effect, partial withdrawal of the September 25, 2003 Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figure 16 described in the specification was omitted upon initial filing. The petition will be treated under 37 CFR 1.53(e).

The application was filed on June 27, 2003. On September 25, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 16 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 16 be accorded a filing date of June 27, 2003 on the basis that 16 pages of formal drawing figures, including Figure 16, were received in the Patent and Trademark Office (PTO) on June 27, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing June 27, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 16 pages of formal drawings.

The return postcard constitutes *prima facie* evidence that 16 pages of formal drawing figures were filed on June 27, 2003. MPEP 503. A review of the originally filed pages of drawings reveals that only 15 pages are present. The page missing corresponds to the page that would contain a "Figure 16." Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 50-0417.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **June 27, 2003**, using the copy of Figure 16 submitted with the instant petition. Office records will be corrected to show that 16 pages of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	3

DATE MAILED:

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

Commissioner for Patents

Receipt is acknowledged of the petition filed April 21, 2005 under 37 CFR 1.48(a) for correction of inventorship. The petition has been GRANTED.

In view of the papers filed, it has been found that during the prosecution of the instant application a name of an inventor was omitted through error without deceptive intention on the part of this inventor. Accordingly, this application has been changed by the addition of Michael Richard. This application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Taofiq A. Solola
Primary Examiner
Art Unit: 1626

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/607,389	06/26/2003	3754	719	9336-7	16	51	3

CONFIRMATION NO. 6209

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

UPDATED FILING RECEIPT

OC000000011447904

Date Mailed: 12/09/2003

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. 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)

Timothy M. Crowder, Durham, NC;
Anthony J. Hickey, Chapel Hill, NC;
Vanessa Boekestein, Durham, NC;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/434,009 05/08/2003
which claims benefit of 60/379,521 05/10/2002
and claims benefit of 60/392,671 06/27/2002
and claims benefit of 60/440,513 01/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/17/2003

Projected Publication Date: 03/18/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Apparatus, systems and related methods for dispensing and /or evaluating dry powders

Preliminary Class

222

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 16, 2007

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction on Patent No.: **7118010 B2 – 10/607389**

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

_____

_____

_____

_____

_____

Kelvin Shaver — **SPE**

3754 — **Art Unit**

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,118,010

DATED : October 10, 2006

INVENTOR(S) : Crowder 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 Title Page:
Section 56, OTHER PUBLICATIONS, should include the following:
PCT International Search Report, International Application No. PCT/US03/20843 filed June 26, 2003; mailed August 23, 2003.
PCT International Search Report, International Application No. PCT/US03/20976 filed June 26, 2003; mailed August 23, 2003.

Ok to be entered 6/22/07 FP

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 7,118,010
No. of additional copies: ____

⇒

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 are required 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.

DEC 22 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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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

COPY MAILED

MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Borran, et al. :
Application No. 10/607,406 : DECISION
Filed: 25 June, 2003 :
Attorney Docket 088245-0163 :

This is a decision on the petition filed on 21 August, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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, no terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed on 22 March, 2007, with reply due under a non-extendable deadline on or before 22 June, 2007.

The application went abandoned by operation of law after midnight 22 June, 2007.

The Office mailed the Notice of Abandonment on 18 July, 2007.

On 21 August, 2007, Petitioner filed the instant petition with fee, a reply in the form of fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

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).

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.[2,3]

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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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] 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

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.
Senior Attorney
Office of Petitions

---

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.))

[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.

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
Alexandria, Virginia 22313-1450
www.uspto.gov

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Gary Becker	: DECISION ON REQUEST FOR
Patent Number	: 7627091	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/607,414	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HOLLIS-EDEN PHARMACEUTICALS, INC.
4435 EASTGATE MALL
SUITE 400
SAN DIEGO CA 92121

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MAR 24 2009

OFFICE OF PETITIONS

In re Application :
Francke :
Application No. 10/607,415 : PATENT TERM ADJUSTMENT
Filed: June 25, 2003 :
Dkt. No.: 202.2D5 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," October 27, 2008. This matter is being treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 24, 2008. The instant application for PTA was timely filed October 27, 2008, prior to submission of the issue fee. Applicant argues that the application is entitled to an additional adjustment of 408 days in accordance with 35 USC (b)(1)(B). Applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this 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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily 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 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

Receipt is hereby acknowledged of the required application fee of $200.00.

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 matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Badio, Barbara P.

From: Newsome, Lamonte
Sent: Wednesday, May 13, 2009 2:24 PM
To: Badio, Barbara P.
Cc: Krass, Frederick
Subject: 10607415

Paper No.: _____

DATE : 5/13/09

TO SPE OF : ART UNIT 1612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10607415 Patent No.: 7524835 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

☒ **Approved** **All** changes apply.

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

Comments:

/Frederick Krass/

SPE
Art Unit

Supervisory Patent Examiner

Art Unit 1612

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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JEFFREY S DRAEGER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BLVD
LOS ANGELES CA 90025

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JUN 19 2006

OFFICE OF PETITIONS

In re :
Richard W. O'Connor :
Application No. 10/607,424 :
Filed: June 25, 2003 :
Patent No. 6,893,094 :
Issued: May 17, 2005

LETTER

This is a letter to inform Patentees that a protest was filed on September 22, 2004. Subsequently, a petition under 37 CFR 1.181 was filed on July 28, 2005, petitioning the Director to consider the protest, or in the alternative to make it of record.

Under 37 CFR 1.291(b), a protest must be filed prior to publication of the application or the mailing of a Notice of Allowance, whichever occurs first. The instant application was published on December 25, 2003. Accordingly, the protest will **not** be made of record. The copy in the Image File Wrapper (IFW) will be closed for viewing. No communication regarding the protest will be made to the protestor/petitioner.

Telephone inquiries concerning this communication may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE CHEN
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Saikumar Jayaraman :
Application No. 10/607,426 : ON PETITION
Filed: June 28, 2003 :
Attorney Docket No. 042390P14109 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 27, 2005.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 11, 2005. This Office action set a statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No issue fee having been received, the above identified application became abandoned on April 12, 2005. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

Petitioner states that a search of the file jacket and docket records indicates that a Notice of Allowance was not received for this application.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

If petitioner can not establish that the Notice of Allowance was not received, petitioner may revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $1500 ($1500, or $750 for a small entity); 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.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

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

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 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. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and 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(a) was unavoidable, is enclosed.

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

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

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

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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INTEL CORPORATION
c/o INTELLEVATE LLC
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
Saikumar Jayaraman :
Application No. 10/607,426 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. 042390P14109 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 18, 2006.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 11, 2005. This Office action set a statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No issue fee having been received, the above identified application became abandoned on April 12, 2005. Applicant filed a petition to withdraw the holding of abandonment on December 19, 2005. However, the petition was dismissed in a decision mailed on February 13, 2006. Petitioner failed to supply a copy of a docket record.

With the instant petition, petitioner has filed a copy of a satisfactory docket record, showing all responses docketed for the date of April 11, 2005.

In view of the above, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to Group Art Unit 1712 for re-mailing of the Notice of Allowance and Notice of Allowability, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
Mark P. Anstadt et al :
Application No. 10/607,434 : DECISION ON PETITION
Filed: June 26, 2003 : TO WITHDRAW
Attorney Docket No. 034448-007 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 30, 2005.

The request is **APPROVED**.

A review of the file record indicates that Howard J. Greenwald: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Howard J. Greenwald along with all of the other attorneys associated with Customer No. **37282** have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

The application is being referred to Technology Center AU 3766 to await a reply to the Final Rejection mailed on April 11, 2006.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: ψ

cc:

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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

ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

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OFFICE OF PETITIONS

In re Application of	:	
Gil et al.	:	
Application No. 10/607,439	:	DECISION ON PETITION
Filed: June 25, 2003	:	
Attorney Docket No. 17517 (AP)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 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 a Notice of Appeal, (2) the $1540.00 petition fee, and (3) a proper statement of unintentional delay.

The Notice of Appeal filed January 18, 2008, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on January 18, 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.

The $510.00 unavoidable petition fee was also collected, but is unnecessary. Accordingly, it will also be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
C/O HAMILTON & TERRILE, LLP
P. O. BOX 203518
AUSTIN, TX 78720

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OFFICE OF PETITIONS

In re Application of :
Clive Richard Kates et al :
Application No. 10/607,459 : DECISION ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. :
AUS920030177US1

This is a decision on the petition treated under 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 16, 2006. A Notice of Abandonment was mailed on September 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of February 15, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 2116 for appropriate action in the normal course of business on the reply received November 15, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,899,904	2005-05-31	10/607,465	2003-06-26	33877-CIP1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gregory J. Skoch/	Date (YYYY-MM-DD)	2009-07-16
Name	Gregory J. Skoch	Registration Number	48267

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

In re Patent No. 6899904
Issue Date: May 31,2005
Application No. 10607465
Filed: June 26,2003
Attorney Docket No. 33877-CIP1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Lu et al.	:	DECISION ON PETITION
Application No. 10/607,469	:	TO WITHDRAW
Filed: June 25, 2003	:	FROM RECORD
Attorney Docket No. 085804-700101	:	

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 17, 2010.

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

A review of the file record indicates that on May 10, 2010 the power of attorney to YAHOO C/O MOFO PALO ALTO was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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

Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Samuel M. Shaolian	: DECISION ON REQUEST FOR
Patent Number	: 7641658	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/607,478	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **826** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

In re Application of :
William Kress Bodin, et. al. :
Application No. 10/607,486 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. AUS920030238US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 11, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on March 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed August 11, 2006, has been accepted and made of record. However, the address given on the petition differs from the address of record. Therefore, a courtesy copy of this decision is being mailed to the address given on the petition. Thereafter, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John Biggers
P.O. Box 1469
Austin, TX 78767-1469

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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FISH & RICHARDSON P.C.
CITIGROUP CENTER
52ND FLOOR
153 EAST 53RD STREET
NEW YORK NY 10022-4611

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JAN 06 2006

OFFICE OF PETITIONS

In re Patent No. 6,898,092 :
Issue Date: May 24, 2005 :
Application No. 10/607,511 : ON PETITION
Filed: June 25, 2003 :
Attorney Docket Number: 16083-138001 :

This is a decision on the petition, filed October 3, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about June 25, 2003, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost after being mailed by petitioners' counsel to the assignee. As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Kimberly Terrell South Tower, 8th Floor (Fax – (571) 273-9740)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:040606

DATE : April 6, 2006

TO SPE OF : ART UNIT 0838

SUBJECT : Request for Certificate of Correction on Patent No.: 6,898,092

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

SPE: Karl Easthom **Art Unit** 2838

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,898,092

DATED : MAY 24, 2005

INVENTOR(S) : MICHAEL BRIERE, JEFFREY GORDON DUMAS AND BISHARA TAHHAN

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

On the Cover Page:

Under References Cited, Other Publications, L.E. LaWhite and M.F. Schlecht publication, replace "Rippel" with --Ripple--

In the Drawings:

Figure 1, "I_M" should be replaced with --I_{IN}--

In the Specification:

Column 6, line 54, "ratio N_P/N_T" should be replaced with --ratio N_T/N_P--

Column 8, Line 43, "device L1" should be replaced with --device L--

In the Claims:

Column 10, Line 18, "negative lines" should be replaced with --negative line--

MAILING ADDRESS OF SENDER:

David L. Feigenbaum
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

PATENT NO. 6,898,092

No. of add'l copies

MAR 28 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Yoshihiro Koyama et al :
Application No. 10/607,513 : DECISION GRANTING PETITION
Filed: June 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00862.023123 :

This is a decision on the petition, filed November 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

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AUG 13 2004

OFFICE OF PETITIONS

In re Application of :
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes :
Application No.: 10/607,517 :
Filed: June 26, 2003 :
Attorney Docket No.: P2002,0542 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 9, 2004 (certificate of mailing date March 4, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 26, 2003 without an executed oath or declaration. The instant Rule 47 petition was filed because petitioners allege Charles Seeley, Jason Lewis, Stacey Lloyd and Paul Kayfes are not available to execute the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that the non-signing inventors cannot be located. Petitioners state that Mr. Alwin Rietzel, who is handling the application for Fujitsu Siemens Computer, LLC, has made efforts to obtain the signatures of the non-signing inventors. Petitioners sent letters and application papers to Messrs. Lewis, Lloyd, and Kayfes, but they were not deliverable. A letter and application mailed to Mr. Seeley was delivered, but no response was received from Mr. Seeley.

Petitioners have shown that Mr. Seeley received the letter and application papers. Because he did not respond to the request that he sign the declaration, petitioners have established Mr. Seeley's constructive refusal to sign the declaration.

Regarding Messrs. Lewis, Lloyd and Kayfes, where inability to find or reach a nonsigning inventor is alleged, 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 to locate the nonsigning inventor.

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, any inquiries of local telephone directory, or any extant national or regional registry, telegrams, searches of Internet databases, and documented inquiries of his last known employer etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A showing of diligence is critical to obtaining Rule 47 status when an inventor cannot be located or reached. One undeliverable mailing is not sufficient to prove that an inventor cannot be located.

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
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HOLLYWOOD FL 33022-2480

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes
Application No.: 10/607,517
Filed: June 26, 2003
Attorney Docket No.: P2002,0542

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 18, 2004 (certificate of mailing date October 13, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 26, 2003 without an executed oath or declaration. Applicants' petition to revive, filed March 9, 2004 (certificate of mailing date March 4, 2004), was dismissed on August 13, 2004 for failure to establish that non-signing inventors Charles Seeley, Jason Lewis, Stacey Lloyd and Paul Kayfes were not available to execute the declaration.

The instant reconsideration was timely filed on October 18, 2004 (certificate of mailing date October 13, 2004).

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alteration to Paul Kayfes' information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether

noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Kayfes can correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

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

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

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

By FAX: (703) 872-9306 – ATTN: Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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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LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

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APR 28 2005

OFFICE OF PETITIONS

In re Application of
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes
Application No.: 10/607,517
Filed: June 26, 2003
Attorney Docket No.: P2002,0542

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed March 21, 2005 (certificate of mailing date March 17, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventor Charles Seeley has constructively refused to join in the filing of the above-identified application after having been presented with the application papers and that non-signing inventor Stacey Lloyd cannot be located. Specifically, the exhibits to the March 9, 2004 (certificate of mailing date March 4, 2004) petition establish that Mr. Seeley was mailed the application papers, including the specification, claims and drawings, but he failed to respond to the request that he sign the declaration. Alwin Reitzler states that searches of telephone directories did not yield contact information for Mr. Lloyd. A mailing of the application papers was not deliverable to Mr. Lloyd's last known address. Despite diligent efforts, Mr. Lloyd could not be located.

Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. However, it is noted that the Stacey Lloyd's zip code is missing from all oaths/declarations filed in this application. **Petitioners must submit an Application Data Sheet with Inventor Information for Mr. Lloyd that includes his zip code.**

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded Technology Center A.U. 2184 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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STACEY LLOYD
1898 ESTATE DRIVE
HILLSBORO, OR 97124

In re Application of
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes
Application No.: 10/607,517
Filed: June 26, 2003
Attorney Docket No.: P2002,0542

LETTER

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APR 2 8 2005

OFFICE OF PETITIONS

Dear Mr. Lloyd:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES SEELEY
17396 N.W. BRICKSTONE CT.
BEAVERTON, OR 97006

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
Seeley, Lynch, Myers, Lewis, Lloyd & Kayfes
Application No.: 10/607,517
Filed: June 26, 2003
Attorney Docket No.: P2002,0542

LETTER

Dear Mr. Seeley:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

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OCT 13 2006

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of	:
Richard P. Betycky et al	:
Serial No.: 10/607,571	: PETITION DECISION
Filed: June 26, 2003	:
Attorney Docket No.: 2685.2046	:

This is in response to the petition under 37 CFR 1.181, filed August 9, 2006, requesting withdrawal of the Final rejection. Applicants assert and provide a copy of an essentially identical petition filed June 6, 2006, which was either not received by the Office or improperly processed and lost by the Office.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on September 9, 2005, acting on claims 140-173. Claims 146-150 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 140, 145-147, 149, 151, 156-158, 160, 163-168 and 170-171 were rejected under 35 U.S.C. 102(b) as anticipated by Radhakrishnan. Claims 140, 145-147, 151, 156-158, 160, 163-168 and 170-171 were also rejected under 35 U.S.C. 103(a) as unpatentable over Radhakrishnan for similar reasons. Claims 140-145, 151, 154-158, 161-168 and 170-171 were rejected under 35 U.S.C. 103(a) as unpatentable over Maa et al in view of the Physicians Desk Reference (PDR). Claims 148-149 were rejected under 35 U.S.C. 103(a) as unpatentable over Maa et al in view of PDR and Jakupovic et al. Claims 152-153, 159 and 169 were rejected under 35 U.S.C. 103(a) as unpatentable over Maa et al in view of PDR and further in view of Warren et al. Claims 172-173 were rejected under 35 U.S.C. 103(a) as unpatentable over Maa et al in view of Adjei et al and Dobrozsi. Claims 140-143, 145, 151, 154 and 159-160 were rejected for Obvious Double Patenting over SN 10/818,902 in view of Maa et al.

Applicants replied on January 5, 2006, canceling claim 145 and incorporating its limitation of spray drying into claims 140 as well as a new limitation for tap density of the powder. Claims 146-150 were amended to overcome the rejection under 35 U.S.C. 112. Each of the rejections was responded to in an appropriate manner.

The examiner mailed a Final Office action to applicants on April 6, 2006, in which all previous rejections except the obvious double patenting rejection were withdrawn or modified and set forth the following rejections: Claims 140-144, 154 and 156-160 were rejected under 35 U.S.C. 102(e) as anticipated by Tarara et al. Claims 152-153 and 155 were rejected under 35 U.S.C.

103(a) as unpatentable over Tarara et al. Claims 161-162 were rejected under 35 U.S.C. 103(a) as unpatentable over Tarara et al in view of PDR. Claims 140-143, 146-151, 159-160 and 162 were rejected under 35 U.S.C. 103(a) as unpatentable over Foster et al in view of Tarara et al. Claim 171 was rejected under 35 U.S.C. 103(a) as unpatentable over Tarara et al in view of Radhakrishnan. Claims 163-170 were rejected under 35 U.S.C. 103(a) as unpatentable over Tarara et al in view of Warren et al. Claims 172-173 were rejected under 35 U.S.C. 103(a) as unpatentable over Foster et al in view of Tarara et al and further in view of the Drug Information Handbook (DIH). Claims 140-143, 151, 154, 159 and 160 were rejected for Obvious Double Patenting over 10/818,902 in view of Maa et al. An interview was held with the examiner on July 11, 2006.

A Notice of Appeal was filed on July 6, 2006. An amendment was filed July 20, 2006, in which applicants proposed further amendments to claims 140, 153 and 173 and canceled claims 151-152 and 154-155 and responded to each of the rejections of record. The examiner mailed an Advisory Action to applicants on August 1, 2006, denying entry of the amendment as not placing the case in better condition for appeal and other reasons.

This petition was then filed on August 9, 2006, and includes the petition filed June 6, 2006.

DISCUSSION

Applicants' petition requests withdrawal of the Finality of the Office action mailed April 6, 2006. Applicants state that in response to the first Office action they amended claim 140, the primary independent claim by incorporating the limitation of claim 145 into it and canceling claim 145. In response the examiner withdrew all of the rejections of record except the Obvious Double Patenting rejection and set forth new rejections over newly applied references and made the action Final. Applicants' argue that this is improper relying on M.P.E.P. 706.07(a) for support. The section states that a second or subsequent action should not be made final if it includes a rejection on prior art not of record (previously applied) on any claim amended to include limitations which should reasonably have been expected to be claimed.

Applicants' argument would have perfect merit if the limitation of claim 145 only had been inserted into claim 140 since that limitation would have been reasonably expected to be claimed. By so doing claim 140 would have had the same scope as claim 145, which is why claim 145 was canceled. But claim 140 is not of identical scope as previous claim 145, as argued by applicants. Applicants inserted into claim 140 an additional limitation to tap density of the powder. This limitation appears in no previous claim and there was no reason for the examiner to expect that it would be inserted into the independent claim as a critical limitation. Because this limitation was not addressed in any reference of record the examiner was required to find additional prior art which addressed this limitation. The new art properly applied was Tarara et al.

DECISION

The petition is **DENIED.**

Applicants' remain under obligation to file an Appeal Brief within the time period set in 37 CFR 41.37(a)(1), or as extended under 37 CFR 1.136(a)

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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JAN 04 2007

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ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of :
Richard P. Betycky et al :
Serial No.: 10/607,571 : PETITION DECISION
Filed: June 26, 2003 :
Attorney Docket No.: 2685.2046 :

This is in response to a third petition under 37 CFR 1.181, filed November 9, 2006, requesting entry of an amendment after Final rejection.

BACKGROUND

A review of the file history is set forth in the previous petition decision, mailed October 3, 2006, and not repeated herein. The previous decision addressed whether the Finality of the Office action, mailed April 6, 2006, was proper. That decision was in response to a first petition filed June 6, 2006, which was not received for unknown reasons and a second petition repeating substantively the first petition and including a copy of the first petition. Included in the second petition was a section requesting review of the examiner's decision not to enter an amendment after Final rejection which section was inadvertently overlooked. This third petition was filed to correct that oversight.

DISCUSSION

Applicants' petition requests entry of an amendment after Final rejection filed July 20, 2006, in which it was proposed to cancel claims 151-152 and 154 and amend claims 140, 153 and 173. Applicants state that the amendments incorporate the limitations of the canceled claims into independent claim 140 and should have been entered. A review of the amended and canceled claims shows this to be correct.

The examiner mailed an Advisory action to applicants on August 1, 2006, refusing entry of the amendment on the basis that it did not place the application in better condition for appeal by reducing or simplifying the issues. The examiner's only explanation of this on the next page was that applicants' arguments were found unpersuasive (with respect to the rejections of record). The examiner's explanation is insufficient and inapposite to the action requested. That some claims are canceled and the independent claim is limited by incorporating the limitations of the canceled claims therein, however, does reduce and simplify the issues and the application in better form for appeal.

DECISION

The petition to enter the amendment filed July 20, 2006, is **GRANTED.** The failure to address this request in the previous petition decision is regretted.

Applicants filed an Appeal Brief with this petition which may need to be revised in view of this decision. Applicants are given ONE MONTH from the date of mailing of this decision within which to file a revised Appeal Brief, if necessary.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,571	06/26/2003	Richard P. Batycky	2685.2046 US3	6287

38421 7590 08/25/2008
ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

EXAMINER	
ALSTRUM ACEVEDO, JAMES HENRY	

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
08/25/2008	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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AUG 2 5 2008

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

In re Application of:	:
Batycky et al.	:
Serial No.: 10/607,571	: PETITION DECISION
Filed: June 26, 2003	:
Attorney Docket No.: 2685.2046 US3	:

This is in response to the petition under 37 CFR § 1.181, filed May 2, 2008, requesting that the finality of the Office action of March 5, 2008 be withdrawn.

BACKGROUND

Most recently, the examiner mailed a final Office action on March 5, 2008 setting a three month statutory limit for reply. At the time of this 'final' Office action, claims 140-144, 146-150, 153, and 156-173 were pending in the application. The examiner rejected the claims under 35 U.S.C. 112, second paragraph, under 35 U.S.C. 103 (a), and double patenting.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on May 2, 2008, requesting that the finality of the Office action of March 5, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on May 2, 2008, applicants argue that the Office action of March 5, 2008 raises new grounds of rejection that were neither necessitated by applicants' amendment of the claims, nor based on information submitted in an information disclosure statement. Specifically, applicants point out that the new grounds are rejections under 35 USC 112, second paragraph,

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not cited in any of the previous Office actions. Applicants further point out that the claims were not amended in response to the previous non-final Office action.

It is pointed out that the examiner did not recite the "This action is Final" summary in the "Conclusion" section of his Office action of March 5, 2008 on page 28. Thus, it is believed that the box (2a) marked Final on the Office Action Summary form appears to be an 'inadvertent error' on the part of the examiner. In any event, applicants' arguments are found persuasive that the final Office action issued June 20, 2008 was premature and, therefore, finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision, i.e. remailing of the Office action with the proper Status non-final box (2b) checked on the Office Action Summary Form.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

OIPE JC25 JAN 28 2005 PATENT & TRADEMARK OFFICE

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/607,572
Filing Date	June 27, 2003
First Named Inventor	Keith W. Reiss
Art Unit	1724
Examiner Name	Not yet assigned
Attorney Docket Number	544382000400

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
5/6/05

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **Strategic Analysis, Inc.**

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

☒ Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number **25227**

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	January 28, 2005

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 1/28/05 Signature: _____ (Chimin Taylor)

va-91881

1753

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COMMISSIONER FOR PATENTS
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SUITE 240
BETHESDA MD 20817

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of
Yu Liu et al.
Application No. 10/607,584
Filed: June 27, 2003
Attorney Docket No. 03501.141

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on October 20, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 27, 2003 naming Yu Liu, M. Parameswara Reddy, Chitra K. Ratnayake and Edward V. Koh as inventors but without a signed declaration.

Accordingly, on September 22, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on October 20, 2003, the present petition was filed with a declaration signed only by joint inventors Liu, Reddy and Ratnayake. Petitioners assert that the Declaration was sent to joint inventor Koh on three occasions and that telephone calls made to the phone number of record were made and messages left but neither the declaration was returned nor the phone calls. Petitioners seek status under 37 CFR 1.47(a) since they have been unsuccessful in reaching Mr. Koh with respect to this application.

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

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

The statement made by the attorney of record suggests that copies of the letters sent with the declaration to Mr. Koh at his last known address were attached to the petition. A review of the file does not reveal any letters that could possibly serve as proof that the

application papers were sent to the non-signing inventor.

The evidence presented does not bear proof that Mr. Koh has had the opportunity to review the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of
Yu Liu et al.
Application No. 10/607,584
Filed: June 27, 2003
Attorney Docket No. 03501.141

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) on March 22, 2004.

The petition is **GRANTED**.

The above-identified application was filed on June 27, 2003 naming Yu Liu, M. Parameswara Reddy, Chitra K. Ratnayake and Edward V. Koh as inventors but without a signed declaration. Accordingly, on September 22, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, on October 20, 2003, a petition was filed with a declaration signed only by joint inventors Liu, Reddy and Ratnayake. Petitioners assert that the Declaration was sent to joint inventor Koh on three occasions and that telephone calls made to the phone number of record were made and messages left but neither the declaration was returned nor the phone calls. The petition was dismissed however because petitioners had not established that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.) since they have been unsuccessful in reaching Mr. Koh with respect to this application.

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

In response to the decision dismissing the petition filed October 20, 2003, the instant petition shows that a complete application has been sent to non-signing inventor Edward V. Koh, that he has accepted delivery of the application materials sent, and that he has, by his actions, refused to cooperate with the filing of the instant application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 1753 for examination in due course.

Telephone inquiries related to this decision 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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TOLEDO, OH 43604

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of:	:	
Peck et al.	:	
Application No. 10/607,614	:	DECISION ON
Filed: June 27, 2003	:	PETITION
Attorney Docket Number: 1-73988	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 30, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed May 6, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 23, 2004. A Notice of Abandonment was mailed December 20, 2004.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 3612 for processing of the Amendment, filed January 30, 2005, in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK,NY 10022-7650

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OFFICE OF PETITIONS

In re Application of :
Bernhard Duelli, et al. :
Application No. 10/607,621 : NOTICE
Filed: June 27, 2003 :
Attorney Docket No. GK-HEF-964/500639.20031

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file will be referred to Technology Center 3754 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Richard L. Hilton, et al. :
Application No. 10/607,624 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 200205511-1 :

This is a decision in response to the petition, filed September 27, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 8, 2007. This decision precedes the mailing of a Notice of Abandonment. On September 27, 2007, the present petition was filed.

The petition is not signed by an attorney of record in the application. However, in accordance with 37 CFR 1.34(a), the signature of Wendell J. Jones 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2185 for consideration of the amendment filed September 27, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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.

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FORT COLLINS CO 80527-2400

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NOV 13 2008

In re Application of :
Richard L. Hilton, et al. :
Application No. 10/607,624 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 200205511-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed by facsimile on October 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 30, 2008. Accordingly, the date of abandonment of this application is September 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510.00 and the publication fee of $300.00, (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

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

Cheryl Gibson-Baylor
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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Paper No.

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON, MA 02021-2310

COPY MAILED

MAY 13 2004

OFFICE OF PETITIONS

In re Application of:	:	
Tannous et al.	:	
Application No. 10/607,630	:	DECISION GRANTING
Filed: June 27, 2003	:	PETITION UNDER
Title of Invention: CONTRAST ENHANCING SOLUTION FOR USE IN CONFOCAL MICROSCOPY	:	37 CFR 1.47(a)

This is in response to a Petition under 37 CFR 1.47(a), filed March 22, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Abel Torres, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STRADLING YOCCA CARLSON & RAUTH
SUITE 1600
660 NEWPORT CENTER DRIVE
P.O. BOX 7680
NEWPORT BEACH CA 92660

MAIL

AUG 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of: :
Michael Rogerson :
Application No. 10/607,648 : DECISION ON REQUEST TO
Filed: June 26, 2003 : WITHDRAW FROM RECORD
For: **AIRCRAFT COMMUNICATION DISTRIBUTION SYSTEM** :

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on April 21, 2005.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents with Customer Number (31278) in the request are withdrawn.

All future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc:

Michael Rogerson
Rogerson Aircraft Corporation
2201 Alton Parkway
Irvine, California 92606

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7018006	2006-03-28	10607651	2003-06-27	41989001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/craigfieschko/	Date (YYYY-MM-DD)	2010-05-17
Name	Craig A. Fieschko	Registration Number	39668

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

In re Patent No. 7018006
Issue Date: March 28,2006
Application No. 10607651
Filed: June 27,2003
Attorney Docket No. 41989.001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

CESARI AND McKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Alan J. Soucy :
Application No. 10/607,699 : DECISION GRANTING PETITION
Filed: June 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 107044-0033 :

This is a decision on the petition, filed November 21, 2005, 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 September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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) (along with any balance due at the time of payment), 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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United States Patent and Trademark Office
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JAN 31 2006

OFFICE OF PETITIONS

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

In re Application of :
Kara L. Kotary et al :
Application No. 10/607,702 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. J-3864 :

This is a decision on the petition, filed January 27, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed January 27, 2006.

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

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

This matter is being referred to Files Repository.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MCCRACKEN & FRANK
200 W. ADAMS, SUITE 2150
CHICAGO, IL 60606

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

Patent No. : 6968666 B2
Ser. No. : 10/607,705
Inventor(s) : SPATAFORA, MARIO
Issued : 11/29/05
Title : **METHOD OF PRODUCING SOFT PACKETS OF CIGARETTES**
Docket No. : **20022/38497A**

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 again.

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.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

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

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

PATREA L. PABST
HOLLAND & KNIGHT LLP
SUITE 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA GA 30309-3400

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APR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Peter J. Houzego et al. :
Application No. 10/607,721 :
Filed: June 27, 2003 : DECISION ON PETITION
Attorney Docket No. PHAG 100 DIV :
Title: INGESTIBLE DEVICE :

This is a decision on the petition filed September 26, 2003.

On June 27, 2003, the above-identified application was deposited. On September 22, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application - Filing Date Granted (notice)", advising applicant that the application appeared to have been deposited without pages 19, 20, 34, and 35 of the specification.

On September 26, 2003, Petitioner submitted a "Response to Notice of Omitted Item(s) in a Nonprovisional Application," along with pages 19, 20, 34, and 35 of the specification and payment of the petition fee. No arguments were made, no evidence was presented, and no mention was made of the desired filing date. As such, Petitioner has not explicitly stated what resolution he seeks.

However, the Petitioner has set forth an attestation that the four pages of the specification which have been enclosed with the instant petition are copies of that which was filed in the parent application.

Although the Petitioner has not revealed what action it is that he wishes the Office to take, it appears that he wishes the missing four pages to be considered constructively present on

filing via an incorporation by reference. A review of the Utility Patent Application Transmittal sheet in the electronic file has shown that the parent application was incorporated by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a divisional of prior application No. 09/742,936, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

(Emphasis added).

If petitioner desires for the examiner to consider the missing four pages which were not submitted as part of the original disclosure, then petitioner may submit these pages via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition is dismissed.

Pages 19, 20, 34, and 35 of the specification, submitted with the instant petition, will not be entered. Should petitioner wish for these pages to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

---

1 See MPEP 608.02(a).

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 27, 2003, using only the application papers filed on that date.

After the mailing of this decision, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Roger H. Bruning, et al.	:	
Application No. 10/607,730	:	
Filed: June 27, 2003	:	
Attorney Docket No. UNVN.106165	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 11, 2007. A Notice of Abandonment was subsequently mailed on December 19, 2007. In response, on January 28, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3714 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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SIERRA PATENT GROUP, LTD.
1657 HWY 395, SUITE 202
MINDEN, NV 89423

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Staats, Erik P.	:	
Application No. 10/607,736	:	ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. APPL-P2828COA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 23, 2005, 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 the Issue Fee Transmittal (with requisite fee) and Formal Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
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

MAY 17 2004

In re Application of	:	
Akira Suzuki	:	NOTICE OF WITHDRAWAL
Serial No. 10/607,742	:	FROM ISSUE
Filed: June 27, 2003	:	UNDER 37 CFR 1.313(b)
For: FRYER		

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to at Milton Cano (571) 272-1398.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

c/o Paloma Industries, Limited
6-12, Momozono-Cho, Mizuho-Ku
Nagoya-Shi, Aichi-Perfecture
Japan

cc: Allowed Files—Pk3-910

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Michael Friedman et al :
Application No. 10/607,743 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. D0932-00356 (VW-8777) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply to the Nonfinal Rejection mailed January 4, 2007.

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

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Christopher Pratley et al	:	
Application No. 10/607,780	:	DECISION GRANTING PETITION
Filed: June 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60001.0241US01/MS# 300508	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 24, 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 2174 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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ROBERT R. RICHARDSON, P.S.
P.O. BOX 2677
SILVERDALE WA 98683-2677

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Robert T. Beierle :
Application No. 10/607,792 : ON PETITION
Filed: 27 June, 2003 :
Atty Docket 03321-P0002B :

This is a decision in reference to the petition filed under 37 CFR 1.181 on 19 June, 2006, to withdraw the holding of abandonment.

This application became abandoned on 4 November, 2005, for failure to timely reply to the Office action requiring restriction and/or election mailed on 3 October, 2005, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 2 May, 2006.

Petitioner states that applicant's attorney telephoned the examiner on 9 November, 2005, and orally elected Claims 1 - 18, and asked whether an extension of time was required. Petitioner further avers that the examiner stated that "the Office would take care of it." Later, petitioner states, the examiner forgot about the call. Petitioner further asserts that the examiner left a phone message for the attorney to discuss the status of the application on 27 April, 2006.

Petitioner's argument has been carefully considered, but is not persuasive.

In this regard, 37 CFR 1.135 states:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require…

The Office action mailed on 3 October, 2005, set a one (1) month shortened statutory period for reply. Petitioner, however, failed to timely respond to the Office action. As such, the application became abandoned for failure to timely respond to the outstanding Office action.

With regard to petitioner's assertion that the examiner "would take care of" the response, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Additionally, 37 CFR 1.2 states that 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.

While this is an unfortunate situation, the Office is nonetheless precluded from granting the requested relief. The responsibility was that of the applicant to timely submit a response to the Office action, and applicant failed so to do.[1]

As such, the showing of record is that the abandonment resulted from the failure to petitioner to respond to the Office action requiring restriction or election, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

---

[1] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

However, in light of the circumstances of this case, petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(a). A written response to the Office action mailed on 5 October, 2005, must also be filed with any petition to revive the application.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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ROBERT R. RICHARDSON, P.S.
P.O. BOX 2677
SILVERDALE WA 98683-2677

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OFFICE OF PETITIONS

In re Application of	:	
Robert T. Beierle	:	
Application No. 10/607,792	:	ON PETITION
Filed: 27 June, 2003	:	
Atty Docket BOEI-1-1191	:	

This is a decision in reference to the petition filed under 37 CFR 1.137(a) on 10 October, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 4 November, 2005, for failure to timely reply to the Office action requiring restriction and/or election mailed on 3 October, 2005, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 2 May, 2006. The petition to withdraw the holding of abandonment filed on 19 June, 2006, was dismissed on 25 September, 2006.

The application is restored to pending status.

The application is referred to Technology Center 2841 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Valentine J. Rhodes :
Application No. 10/607,798 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 1020.P16728 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the notice of not fully responsive reply for applications under accelerated examination Office action mailed, September 10, 2007, which set a shortened statutory period for reply of one (1) month. Accordingly, the application became abandoned on October 11, 2007.

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2616 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Valentine J. Rhodes	: DECISION ON REQUEST FOR
Patent Number	: 7602696	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/607,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1142** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
DROTTAR, Ken
Application No.: 10/607,799
Filing Date: June 27, 2003
Docket No.: 42P16616
For: APPARATUS AND AMPLIFIER FOR RECEIVED EQUALIZATION

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 13, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice of Non-Compliant Amendment mailed November 12, 2004. This Notice set a one (1) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective midnight December 12, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of an amendment, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center AU 2817 for continued processing.

Erin P. Thomson
Erin Thomson
Attorney Advisor
PCT Legal Administration

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

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Qinghua Li et al.
Application No. 10/607,801
Filed: June 27, 2003
Attorney Docket No. 42P16725

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 31, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 27, 2006 for failure to timely reply to the Final Office Action mailed September 26, 2006, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed June 18, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2821 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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MEHLER LTD
200 WEST ADAMS STREET
SUITE 2850
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of
Stanley E. Zocholl :
Application No. 10/607,804 : DECISION ON
Filed: June 26, 2003 : PETITION
Attorney Docket No. 1444-0079 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed September 6, 2006.

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

The above application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed June 5, 2006. No issue fee having been received, the application became abandoned on September 6, 2006.

With the instant petition, petitioner paid the petition, issue, and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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GRANT ANDERSON LLP
C/O PORTFOLIOIP
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
ADAM, Gail I. R. et al. :
Application No. 10/607,806 : DECISION ON PETITION
Filed: June 27, 2003 : TO WITHDRAW
Attorney Docket No. **SEQ-4032-UT** : 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 22, 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, files transferred to Jones Day, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JONES DAY**
1755 EMBARCADERO ROAD
PALO ALTO, CA 94303

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Hamel et al.	:	DECISION ON PETITION
Application No. 10/607,810	:	TO WITHDRAW
Filed: June 27, 2003	:	FROM RECORD
Attorney Docket No. 3002.P0312US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2005.

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

A review of the file record indicates that on December 30, 2005 the power of attorney to Blakely Sokoloff Taylor & Zafman LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo MI 49008-1631

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COMMISSIONER FOR PATENTS
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Sweeney, et al. :
Application No. 10/607,818 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 279.636US1 :

This is a decision on the petition under 37 C.F.R. 1.181, filed January 26, 2005 (certificate of transmission date December 6, 2004), to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed on September 23, 2003, which set forth an extendable 2 month period to submit various fees, an executed oath, and a surcharge. No extensions of time being obtained pursuant to 37 C.F.R. 1.136(a), the Office contended this application became abandoned on November 24, 2003 for failure to reply to the September 23, 2003 Notice. A Notice of Abandonment was mailed on October 18, 2004.

Petitioners assert that a check for $2,024.00 to cover the large entity basic filing fee and additional claims fees, an executed declaration, and a check for the surcharge was mailed to the Office on November 21, 2003. The original response is not of record in the file and cannot be located. However, the copy of the itemized cover sheet previously mailed and re-submitted with the instant petition contains a proper certificate of mailing bearing a November 21, 2003 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with

the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized cover sheet bears a proper certificate of mailing, dated November 21, 2003, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Attorney Daivd W. Black asserts that a timely reply to the September 23, 2003 Notice was mailed on November 21, 2003.

The petition is **GRANTED**.

Since the checks mailed with the correspondence on November 21, 2003 cannot be located, deposit account no. 19-0743 will be charged the $130.00 surcharge and the $2,024 fees that were due on November 21, 2003.

The application file will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BLVD., SUITE 300
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Shanti Cavanaugh :
Application No. 10/607,855 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 595242000610 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 22, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 23, 2003.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

4/8/04

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No.

In re Application of Pavel Shuk et al. :
: DECISION GRANTING PETITION
Application No. 10/607,856 : TO REMAIL AN OFFICE
Filed: June 27, 2003 : COMMUNICATION AND RESTART
Attorney Docket No. R302.12-0062 : PERIOD FOR REPLY

This is a decision on the petition filed on March 22, 2004, requesting that the Office communication mailed on September 22, 2003 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record well after the period of reply. The petition was filed within two weeks of receipt of the Office communication. The entire period to reply had expired.

The Office communication in question will not be remailed but the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication sent on March 1, 2004. Since the response to the Notice to File Missing Parts requirements have been met, the application will be processed with the original filing date. No extensions of time are required.

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

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P.O. Box 1450
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3040 POST OAK BLVD
SUITE 1500
HOUSTON, TX 77056-6582

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OFFICE OF PETITIONS

In re Application of :
Nelson et al. :
Application No. 10/607,864 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. SVL920030019US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further, Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/607,864	**Applicant(s)** NELSON ET AL.	
	Examiner CHELCIE DAYE	**Art Unit** 2161	

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

THE REPLY FILED 27 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *The newly amended claims reaise new issues, which would require further search and consideration by the examiner, which do not seem to place the application in condition for allowance*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-7*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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United States Patent and Trademark Office
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/22/2010

Applicant	: Kentin L. Alford	: DECISION ON REQUEST FOR
Patent Number	: 7629028	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/607,870	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1158** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MERCHANT & GOULD, PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Raphael Rembrand, et. al.
Application No. 10/607,891
Filed: June 27, 2003
Attorney Docket No. 12808.20USI1

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed September 18, 2006 and November 14, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to a prior-filed international application designating the United States of America (Application No. PCT/IL02/00069, filed January 23, 2002). The delay in responding is regretted.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT.**

The petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application. More specifically, the amendment filed with the petition seeks to include an amendment to state that application Serial No. 10/442,495 is "a 371 of PCT/IL02/00069, filed January 23, 2002."

As noted in MPEP 1893.03(c)(III), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

Since the petition is unnecessary, for the reasons stated above, the petition fee is likewise unnecessary and will not be charged to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 2615, for appropriate processing of the Request for Continued Examination (RCE) and amendment filed November 14, 2007.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

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7801 COMPUTER AVENUE SOUTH
BLOOMINGTON MN 55435

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OFFICE OF PETITIONS

In re Application of	:	
Macken et al.	:	
Application No. 10/607894	:	ON PETITION
Filed: June 27, 2003	:	
Attorney Docket No. STL11064.00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 2006, 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 drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:	
Kreiner et al.	:	DECISION ON PETITION
Application No. 10/607,895	:	TO WITHDRAW
Filed: June 27, 2003	:	FROM RECORD
Attorney Docket No. 20009.0264US01(02242)	:	

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 9, 2005.

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

A review of the file record indicates that on December 16, 2005 the power of attorney to Woodcock Washburn LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: AT&T Legal Department – WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Pierre Sommadossi, et al.	:	
Application No. 10/607,909	:	DECISION GRANTING PETITION
Filed: June 27, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IDX 103106171.105088	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 14, 2006 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 April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and a petition to correct inventorship under 37 CFR 1.48(a).

Frances Hicks
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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Patrick J S Inouye P.S.
810 3rd Avenue
Suite 258
Seattle, WA 98104

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Technology Center 2100

In re Application of:
Vineet GUPTA, et al.
Application No.: 10/607,927
Filed: June 27, 2003
For: SYSTEM AND METHOD FOR PROVIDING PREFERRED COUNTRY BIASING OF SEARCH RESULTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 28, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Kulpreet Rana
Google, Inc.
1600 Amphitheatre Parkway, Bldg. 41
Mountain View, CA 94043

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Paper No.

Patrick J.S. Inouye PS
810 3RD Avenue
Suite 258
Seattle, WA 98104

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APR 11 2005

Technology Center 2100

In re Application of:
Sriver, Joe
Application No. 10/607,929
Filed: June 27, 2003
For: SYSTEM AND METHOD FOR NAVIGATING WITHIN A GRAPHICAL USER INTERFACE WITHOUT USING A POINTING DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 28, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed February 28, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

/JM/ Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Kulpreet Rana
GOOGLE INC.
1600 Amphitheatre Parkway, Bldg. 41
Mountain View, CA 94043

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OFFICE OF PETITIONS

BLAKELY, SOKOLOFF, TAYLOR, & ZAFFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

In re Application of
Joe Sriver, et al.
Application No. 10/607,929
Filed: June 27, 2003
Attorney Docket No.: 025.0334.US.UTL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 11, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before November 6, 2008, as required by the Corrected Notice of Allowance and Fee(s) Due, mailed August 6, 2008, 2008. A Notice of Abandonment was mailed on December 3, 2008. In response, on March 11, 2009, the present petition was filed.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael J. Mallie 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 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, (2) the petition fee of $1,620; 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.

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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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OFFICE OF PETITIONS

In re Application of	:	
Guha et al.	:	
Application No. 10/607,932	:	DECISION ON PETITION
Filed: June 26, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10012-001010US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

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

The instant pending nonprovisional application was filed on June 26, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/407,299, which was filed on September 3, 2002, and for which priority is claimed. A reference to the prior-filed provisional application appears in the petition as an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both

> applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Further, the amendment is also unacceptable because it is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In the instant petition, petitioner lists provisional Application No. 60/407,299, filed September 3, 2002, as entitled as "Method and Apparatus for Efficient Scalable Storage Management." However, USPTO records indicate that the above-noted provisional application is entitled "Method And Apparatus For Power-Efficient High-Capacity Scalable Storage System."

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

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

[1] *Note* 37 CFR 1121

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: CHARLES J. KULAS
CARPTETER & KULAS, LLP
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Guha et al.	:	
Application No. 10/607,932	:	DECISION GRANTING PETITION
Filed: June 26, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 100112-001010US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/407,299, filed September 3, 2002, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/407,299, which was filed on September 3, 2002, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

The Power of Attorney submitted with the instant petition is hereby not accepted. Any papers filed in an application must be signed by all of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73. The power of attorney submitted was only signed by one of the three inventors in the instant application. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. Any 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 AU 2186 for appropriate action on the amendment submitted July 15, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/407,299.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: CARPENTER & KULAS, LLP
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

Enclosure: Corrected Filing Receipt

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7035972	2006-04-25	10607932	2003-06-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph A. Twarowski/	Date (YYYY-MM-DD)	2010-05-11
Name	Joseph A. Twarowski	Registration Number	42191

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about 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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 7035972
Issue Date: April 25,2006
Application No. 10607932
Filed: June 26,2003
Attorney Docket No. 100112-001010US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 11,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Paper No. 030304

TOLER & LARSON & ABEL L.L.P.
5000 Plaza on the Lake, STE 265
Austin, TX 78746

MAR - 8 2004

In re Application of:
LEE *et al.*
Serial No.: 10/607,945
Filed: June 27, 2003
Attorney Docket No.: **1014-SP219**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 05, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item IX: Special status for patent applications relating to superconductivity.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IX, for an invention that relates to superconductivity materials, should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

Accompanying the petition is a statement by Jeffrey Abel that the invention involves superconductive materials.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

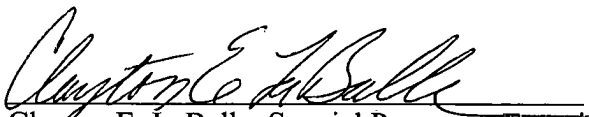
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

2/29/08

In re Application of:
Lopez, George A.
Serial No.: 10/607,946
Filed: Jun. 27, 2003
Docket: ICUMM.11C4C4CC1
Title: FLUID TRANSFER DEVICE AND METHOD OF USE

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on Feb. 11, 2008, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The petitioner has authorized a charge of the requisite petition fee to the Account No. 11-1410.

The petition is dismissed.

The record shows that:

1) On Aug. 10, 2007, the examiner issued a non-final Office action.
2) On Feb. 11, 2008, the applicant filed a response to the non-final Office action and the petition for a six-month suspension under 37 CFR § 1.103(a).

In the petition, petitioner alleges that the applicant is in the process of ongoing discussions with the Office regarding the most efficient method to submit voluminous documents from litigations involving patents that share a common priority claim with the present application. Petitioner believes that this process of ongoing discussions constitutes a good and sufficient cause to justify a six-month suspension of action.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Applicant has failed to outline where he/she presently stands in the discussion with the Office personnel regarding submission of the voluminous documents from litigations involving patents that share a common priority claim or to establish why, in particular, a six-month suspension of action will advance the prosecution of the application. Accordingly, applicant has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the

examiner for immediate consideration of the amendment filed on Feb. 11, 2008 and issuance of an Office action.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3763 for preparation of an Office action in response to the amendment filed on Feb. 11, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

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Advanced Bionics Corporation
25129 Rye Canyon Road
Valencia, CA 91355

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Jordi Parramon, et al.	:	
Application No. 10/607,963	:	DECISION ON PETITION
Filed: June 27, 2003	:	TO WITHDRAW
Attorney Docket No. 585-0031US1/05-00435-03	:	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 8, 2008.

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

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on May 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wong, Cabello, Lutsch, Rutherfor &**
Brucculer L.L.P.
20333 SH 249
Suite 600
Houston, TX 77070

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MAR - 3 2005

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

MAILED

MAR 3 2005

OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Kenji Yamada	:	
Serial No. 10/607,980	:	NOTICE OF WITHDRAWAL
Filed: June 20, 2003	:	FROM ISSUE
For: FINISHER FOR AN IMAGE FORMING APPARATUS	:	UNDER 37 CFR 1.313

The above-identified application is withdrawn from issue after the payment of the issue fee due to unpatentability of one or more claims.

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Examiner Kohner at (703) 305-8496.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Technology Center 3600

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OCT 13 2004

OFFICE OF PETITIONS

DEWITT ROGGIN PLLC
12 E. LAKE DRIVE
ANNAPOLIS MD 21403

In re Application of	:	
Darryl Marshall Ashby et al	:	
Application No. 10/608,144	:	ON PETITION
Filed: June 30, 2003	:	
Attorney Docket No. 0284-0021	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 7, 2004.

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

The application file is being referred to the Office of Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

Law Offices of David J. Serbin
Unit 2 - First floor
1423 Powhatan Street
Alexandria, VA 22314

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JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Hakansson et al. : DECISION ON PETITION
Application No. 10/608,152 :
Filed: June 30, 2003 :
Title: PROCESS FOR PRODUCING ALKALI :
METAL CHLORATE :

This is a decision on the "PETITION TO WITHDRAW NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION UNDER 37 CFR 1.53(e) AND TO ASSIGN THE ORIGINAL FILING DATE," filed November 21, 2003, requesting that the above-identified application be accorded a filing date of June 30, 2003.

Application papers in the above-identified application were received on June 30, 2003. However, on September 23, 2003, the Office mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

Petitioner responded with the instant petition (and authorization to charge the petition fee). Petitioner asserts that the above application was hand carried directly to the Patent and Trademark Office on June 30, 2003, with one sheet of drawings containing Figures 1 and 2. In support thereof, petitioner submitted a copy of their date-stamped postcard receipt. Petitioner also supplied a copy of the drawing sheet.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on June 30, 2003 of the correspondence assigned application No. 10/608,152, 2) it identifies the items being filed, including "one sheet drawings," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the one sheet of drawings, were filed on June 30, 2003.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the fee will not be charged to the Deposit Account as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of June 30, 2003, using the application papers received in the Office and presently accorded that date; and the drawing sheet containing Figures 1-2 resupplied on petition filed November 21, 2003.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

Mail Date: 04/20/2010

Applicant	: Roberto J. Bayardo JR.	: DECISION ON REQUEST FOR
Patent Number	: 7577939	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,204	: OF WYETH
Filed	: 06/27/2003	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
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WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Patent No. 7,105,999 :
Issue Date: September 12, 2006 :
Application No. 10/608,229 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 053785-5127 :

This is a decision on the petition filed May 8, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

3663

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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OFFICE OF PETITIONS

In re Application of
Fermann, et al.
Application No. 10/608,233
Filed: June 30, 2003
Attorney Docket No. A8596
For: IN-LINE, HIGH ENERGY FIBER CHIRPED PULSE AMPLIFICATION SYSTEM

ON PETITION

This is a decision on the petition filed October 27, 2003, requesting, in effect, that the Notice to File Missing Part(s) of Nonprovisional Application, mailed September 26, 2003, be withdrawn, insofar as it alleges that Figures 9a and 9b appeared to have been omitted from the application. The petition will be treated under 37 CFR 1.53(e).

The petition is **dismissed.**

The application was filed on June 30, 2003. On September 26, 2003, the Office of Initial Patent Examination mailed a Notice stating, *inter alia,* that the application had been accorded a filing date of June 30, 2003, and advising applicants that Figures 9a and 9b described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners desire that Figures 9a and 9b be accorded a June 30, 2003 filing date. Petitioners point to their incorporation by reference statement on the transmittal letter, filed June 30, 2003, to show that since the omitted drawing figures were part of provisional application no. 60/474,999, that the drawing figures should be considered part of the disclosure of the present nonprovisional application. In addition, petitioners argue that Figures 9a and 9b were filed on June 30, 2003 and refer to an enclosed date stamped postcard receipt that allegedly proves 14 sheets of drawing figures were received by the Office on June 30, 2003.

The referenced postcard receipt cannot be located. However, it is not necessary to resolution of the issue at hand.

The missing postcard receipt would presumably show that 14 pages were filed on June 30, 2003. A review of the application papers filed on June 30, 2003 shows that 14 pages of drawings are indeed present. Instead of Figures 9a and 9b, applicants filed Figures 8a and 8b on June 30, 2003. It is noted that the Brief Description of the Drawings filed on June 30, 2003 does not describe Figures 8a and 8b, but refers to Figures 9a and 9b. A comparison of Figures 8a and 8b, filed on June 30, 2003, and Figures 9a and 9b, filed with the instant petition, reveals that they are the same figures. The only difference between the two sheets of drawings is the labeling of the figures.

It is apparent that petitioners referred to the drawings in an inconsistent manner in the Brief Description of the Drawings and in the drawing figures filed on June 30, 2003, but all intended figures were filed on that date.

Therefore, the "Notice" mailed September 26, 2003, was correct in advising applicants that Figures 9a and 9b appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn. The petition fee is required, since the petition was not necessary to correct any PTO error.

To avoid further delay in the examination of the application, a letter to the draftsman correcting the labeling of the drawing figures should be filed prior to the first Office action.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of June 30, 2003. Figures 9a and 9b submitted with the instant petition will not be considered part of the original filing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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DRIGGS, LUCAS, BRUBAKER & HOGG CO., L.P.A.
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8522 EAST AVENUE
MENTOR OH 44060

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of :
Charles A. Welsh :
Application No. 10/608,245 : DECISION ON PETITION
Filed: June 27, 2003 : UNDER 37 C.F.R. §1.53(e)
Attorney Docket No. WLH-10-5743 :
Title: HUB AND METHOD FOR :
STORAGE OF A SPIGOT CAP :

This is a decision on the "petition to retain original filing date under 37 C.F.R. §1.181," filed October 14, 2003, which is properly treated as a petition under 37 C.F.R. §1.53(e), requesting the application, including page seven (7) of the specification be accorded a filing date of June 27, 2003 as part of the original disclosure.

The application was deposited on June 27, 2003. However, on September 23, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application - Filing Date Granted" (Notice), stating that the application had been accorded a filing date of June 27, 2003 and advising applicant that page seven (7) of the specification appeared to have been omitted.

In response, on October 14, 2003, applicants filed the present petition. The petition is further accompanied by an authorization to charge the petition fee to Petitioner's Deposit Account, a copy of the specification, and a copy of applicants' postcard receipt acknowledging receipt of "Spec: 7 pages + transmittal (in duplicate)" in the United States Patent and Trademark Office (Office) on June 27, 2003. Applicants request that the application, including page seven (7) of the specification be accorded a filing date June 27, 2003.

Upon review of the record, the above-mentioned page of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 27, 2003 included page seven (7) of the specification, and this page of the specification was subsequently misplaced in the Office.

Therefore, the application, including page seven (7) of the specification, was complete on filing and entitled to a filing date of June 27, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed September 23, 2003, was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee of $130 has not been charged to Petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 27, 2003, using the original application papers filed on that date, as well as page seven (7) of the specification, submitted with the instant petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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OIPE 03-04

ALEXANDER J. BURKE
INTELLECTUAL PROPERTY DEPARTMENT
5TH FLOOR
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Mary Balogh :
Application No. 10/608,254 : DECISION REFUSING STATUS
Filed: 27 June, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 2002P18305US01 :

This is in response to the petition filed on 26 January, 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

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

The above-identified application was filed on 27 June, 2003, without an executed oath or declaration. Accordingly, on 23 September, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 26 January, 2004 (certificate of mailing date 19 January, 2004), petitioners filed the present petition. Additionally, on 26 January, 2004 (certificate of mailing date 22 January, 2004), petitioners filed the late-filing surcharge and a two (2) month extension of time.

Petitioner asserts that the inventor has been sent a copy of the application, but has refused in writing to sign the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2) and (6).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

As to item (6), petitioners must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[2]

The petition fee of $130.00 has been charged to counsel's deposit account, 19-2179, as authorized in the present petition.

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

---

[1] MPEP 409.03(b).

[2] MPEP 409.03(g).

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Mary Balogh	:	
Application No. 10/608,254	:	DECISION ACCORDING STATUS
Filed: 27 June, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 2002P18305US01	:	

This is in response to the renewed petition filed on 29 March, 2004, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown, that a copy of the application papers for the above-identified application was sent to the last known address of the non-signing inventor, but that the inventor did not return the executed declaration. Additionally, petitioner has shown proprietary interest by providing a copy of the employment agreement between the non-signing inventor and Rule 47(b) applicant. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to Technology Center Art Unit 3626 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Mary Balogh
6301 Grant St.
Hollywood, FL 33024

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OFFICE OF PETITIONS

In re Application of
Mary Balogh
Application No. 10/608,254
Filed: 27 June, 2003
For: System for Processing Unpaid Healthcare Claims

Dear Ms. Balogh:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole 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 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) 272-3231. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ELSA KELLER
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
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9250 WILSHIRE BOULEVARD
SUITE 325
BEVERLY HILLS, CA 90212

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of :
David Deng :
Application No. 10/608,260 : DECISION GRANTING PETITION
Filed: June 27, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 05-09-2569 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2005, 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 (Ex parte Quayle) mailed March 29, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on December 28, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Ex parte Quayle action of March 29, 2004; (2) the petition fee $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of March 29, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37

CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3742 for appropriate action in the normal course of business on the reply received September 28, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No.

Michael A. Forhan
Thompson Hine LLP
10 W. Broad Street, Suite 700
Columbus, OH 43215-3435

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MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Ralph F. Kalies :
Application No. 10/608,265 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 036806.00434 :

This is in response to the "Petition Under 37 CFR 1.47(b), filed November 24, 2003.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

(5) proof of proprietary interest: and

(6) proof of irreparable damage.

Applicant lacks items (2) and (6) set forth above.

With regard to item (2) noted above, petitioner has not provided an oath or declaration in compliance with 37 CFR 1.64. The oath or declaration submitted June 27, 2003 does not contain an appropriate signature as required by 37 CFR 1.63 and MPEP 409.03(b). MPEP 409.03(b)(A) states:

> "The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either poof of the attorney or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b)."

In view of the above, petitioner must submit a properly executed oath or declaration.

With regard to item (6) noted above, petitioner has not provided proof of irreparable damage. Irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. Rule 47 status cannot be accorded until such a showing is established.

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

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Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

Thompson Hine LLP
2000 Courthouse Plaza, N.E.
10 West Second Street
Dayton, OH 45402-1758

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OFFICE OF PETITIONS

In re Application of :
Ralph F. Kalies :
Application No. 10/608,265 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 036806-434 :

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(b), filed March 1, 2004.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

(5) proof of proprietary interest: and

(6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

In response to the previous decision on petition, petitioner submitted a declaration with the instant petition. However, the declaration does not contain the full name, residence, post office address, and citizenship of the nonsigning inventor and signed by the assignee. While petitioner submitted an oath or declaration upon filing of the application that did contain the required information of the nonsigning inventor, that declaration was not signed by the assignee. MPEP 409.03(b) states in pertinent part:

> "The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf."

Again, an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 must be filed.

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

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Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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10 West Second Street
Dayton, OH 45402-1758

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In re Application of :
Ralph F. Kalies :
Application No. 10/608,265 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 036806-434 :

CORRECTED DECISION

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(b), filed March 1, 2004.

The petition is **GRANTED**.

The decision mailed June 24, 2004 is hereby vacated.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has shown that the non-signing inventor, Ralph A. Kalies, refuses to join in the application.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Louis C. Dujmich
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Mail Date: 04/21/2010

Applicant	: Ralph F. Kalies	: DECISION ON REQUEST FOR
Patent Number	: 7657437	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Patrick J. S. Inouye, PS
810 3rd Avenue
Suite 258
Seattle, WA 98104

MAILED

APR 2 6 2005

Technology Center 2100

In re Application of:
Craig NEVILL-MANNING
Application No.: 10/608,270
Filed: June 27, 2003
For: SYSTEM AND METHOD FOR PROVIDING DEFINITIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 28, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Kulpreet Rana
Google, Inc.
1600 Amphitheatre Parkway, Bldg. 41
Moutain View, CA 94043

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **February 27, 2008**

TO SPE OF : ART UNIT **3754**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/608279** Patent No.: **7198162 B2**

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

The request for a certificate of correction for an error in the specification and in the drawing is accepted. However I don't know why the amendments of the request including the copy of the amendment of the claim and remarks dated 7/31/06, which will not be accepted.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Lien Ngo

Primary examiner 5/1/08

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Matthew James Callow et al.	:	
Application No. 10/608,293	:	DECISION ON PETITION
Filed: June 27, 2003	:	TO WITHDRAW
Attorney Docket No. CAL-1CIP	:	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, 2005.

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

A review of the file record indicates that the power of attorney to Nuvelo, Inc. has been revoked by the assignee of the patent application on March 16, 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: **Nuvelo, Inc.**
201 Industrial Road
Suite 310
San Carlos, CA 94070

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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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :

ADAM, Gail I. R. et al. :
Application No. 10/608,296 :
Filed: June 27, 2003 :
Attorney Docket No. **524592003100** :

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 August 22, 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: **JONES DAY**
1755 EMBARCADERO ROAD
PALO ALTO, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 21, 2008

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/608310 Patent No.: 7372873 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 2616 Art Unit

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SEP 23 2005

EDWARD D. GRIEFF
WILMER CUTLER PICKERING HALE & DORR
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

In re Application of	:
Ramani R. Runatunge et al	:
Serial No.: 10/608,333	: PETITION DECISION
Filed: June 30, 2003	:
Attorney Docket No.: 102258.153	:

This is in response to the petition under 37 CFR 1.144, filed May 18, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 58 claims, as filed. It is also noted that claim 1 was over 60 pages long. The examiner in a first Office action, mailed November 19, 2004, set forth a restriction requirement (not reproduced herein) dividing the claims into 25 groups. The requirement generally divides the claims into Groups I-XVI directed to compounds and compositions based on structural formulas I-XVI, as set forth in claim 1, Groups XVII-XXIV directed to methods of treatment of various diseases and conditions using the compounds/compositions of claim 1 and Group XXV directed to kits containing the compounds/compositions. The examiner also required an election of species if one of Groups I-XVI or XXV was elected or an election of a specific disease or condition if one of Groups XVII-XXIV were elected. The examiner stated that each of the compounds and compositions were different from those of the other groups based on classification and differing structure and that to search all groups would be burdensome on the Office. The methods were considered to be different based on the multitude of different diseases and conditions treated. The examiner further stated that upon election of a species the Office would review the claims and disclosure and determine the scope of the independent invention encompassing the elected compound/composition and limit examination thereto.

Applicants replied by electing Group II, directed to compounds and composition of Formula II, claims 1-2, 14-16, 28-39 and 55-57, in part and traversing the requirement. Applicants suggested a restriction requirement of 16 groups based on the 16 structural formulas in Claim 1 with all claims being common to each group. Applicants argued that the method of use claims should be examined with the compound/composition claims. Applicants also elected a species as required.

The examiner mailed a new Office action to applicants on February 18, 2005, acknowledging the election of Group II and the species identified. The examiner responded to the traversal noting that the various Groups of compounds were not related to each other and made the requirement Final. The examiner then defined the scope of the compounds to be examined based on the species elected limiting R^1, $R^{1'}$, R^2 and R^4 to single values and permitting only limited variation in R^5. The examiner then rejected claims 1-2, 14-16, 28-39 and 55-57 under 35 U.S.C. 112, first and second paragraphs, as failing to comply with the written description requirement noting that substituents R^1, $R^{1'}$, R^2, R^4 and R^5 are not defined in the specification or claims. The claims were also objected to as containing non-elected subject matter. Rejoinder of claims 40-50 was indicated as to be granted if limited to those diseases or conditions having support in the specification.

Applicants replied on May 18, 2005, by filing an amendment which canceled claim 1 replacing it with claim 59 limited to the compounds of Formula II (the elected Group) and modifying dependencies of other claims as needed. A petition with respect to the restriction requirement was filed concurrently

DISCUSSION

Applicants argue that restriction is not proper when the inventions are related and not patently distinct. Applicants argue that all claims are related as being directed to nitrosated or nitrosylated cyclooxygenase-2 inhibitor compounds. From applicants' initial argument it is presumed that the restriction requirement between the 16 formulas of original Claim 1 is not being argued, but rather the examiner's determination of the scope of the invention to be examined based on the species elected and the restriction between method and kit claims containing the compounds. Applicants argue that the examiner must show that the claims are separately classified, or have acquired a separate status in the art or have different fields of search.

Applicants reference US Patent 6,649,929 where compounds, compositions and kits of a single structure were examined and issued together. While such reference is indicative of what was done in a related application, each application is examined on its own merits and what is done in one application may not be appropriate in another application. However, general consistency of prosecution within the Office is desirable and generally found.

With respect to the examiner's determination of the scope of the invention to be examined based on the species elected, such is improper, as pointed out by applicants by referencing M.P.E.P. 803.02. The examiner having determined 16 separate groups of invention within original claim 1, each group consisting of a large number of related compounds sufficient to require an election of species within the group elected, could not then further restrict the compounds encompassed within the group by limiting the scope of invention to be examined as has been done here. M.P.E.P. 803.02 requires an examiner to determine whether the elected species first avoids the prior art. If so, the examiner is required to expand examination to a reasonable number of related species. If all of these are found to be patentable over the prior art then they are further examined to ensure they meet all other requirements for patentability. However, discovery of a species which is not patentable over the prior art mandates the entire claim to be rejected. The

examiner here has, to some extent, expanded the examination beyond the elected species, but has ~~found~~ identified no prior art which would render the limited scope of compounds examined unpatentable. Thus continued expansion of the scope of the species is required until a species is found that is not patentable over the prior art or a sufficient number (not necessarily all) of species have been found patentable over the prior art. If all other conditions for patentability are met then the compound/composition claims are considered allowable.

As the examiner has noted, upon determination of allowability of the compound/composition claims, method of use (i.e. treatment) claims (as well as kit claims) will be rejoined so long as they contain all of the limitations of the allowed compound/composition claims and will be examined for compliance with all other aspects of the statute to determine their patentability. Such rejoinder is at this time inappropriate as the examiner has not determined the patentability of the full scope of the compound/composition claims.

DECISION

The petition is **GRANTED** to the extent indicated above.

The application will be forwarded to the examiner for further consideration in view of the amendment filed concurrently with the petition..

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,344	06/27/2003	Francesco Gavagnin Apollonio	2077/7B	8757

7590 06/15/2005

Adams Evans P.A.
2180 Two Wachovia Center
Charlotte, NC 28282

EXAMINER	
WORRELL JR, LARRY D	
ART UNIT	**PAPER NUMBER**
3765	

DATE MAILED: 06/15/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

W. Thad Adams, III
Adams Evans P.A.
2180 Two Wachovia Center
302 South Tryon Street
Charlotte, NC 28282-1991

In re Application of	:	
APOLLONIO	:	
Serial No. 10/608,344	:	DECISION ON PETITION
Filed June 27, 2003	:	
For: Method of Forming Fine Gauge Knitted Fabric with Open-Work Pattern	:	

This is a decision on petitioner's request, to review the holding of abandonment, mailed July 19, 2004, for failure to respond to the Notice of Allowance of February 24, 2004.

A review of the file indicates that the Notice of Allowability and Notice of Allowance were noted in the application as mailed on the February 24, 2004. Applicant has provided a copy of their docket receipt for the application noted above. In this copy it is noted that the receipt of a Notice of Allowance and Notice of Allowability are absent.

In view of the above, the Notice of Allowance and Issue Fee Due mailed February 24, 2004, was never received by appellant. The **holding of abandonment is withdrawn**. This application is being forwarded to the examiner for appropriate action.

/Richard A Bertsch/

Richard A. Bertsch, Director
Technology Center 3700

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1650 MARKET STREET
PHILADELPHIA, PA 19103

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of
Harold R. Younger et al
Application No. 10/608,353
Filed: June 27, 2003
Attorney Docket No. ABDT-0565/B030140

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2006.

The petition 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 Steven B. Samuels on behalf of all attorneys/agents of record who are associated with customer No. 23377.

All attorneys/agents associated with customer No. 2337 have been withdrawn.

Applicants are 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 inventor at the first copies address below until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3729.

David Bucci
Petitions Examiner
Office of Petitions

cc: HAROLD R. YOUNGER
P.O. BOX 174
HALIFAX, VA 24558

LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

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PAUL R. KATTERIE
ABB INC.
29801 EUCLID AVENUE
WICKLIFFE, OH 44092-1832

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Harold R. Younger et al :
Application No. 10/608,353 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. :

This is a decision on the petition, filed March 6, 2007 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 3729 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/608,353	06/27/2003	Harold R. Younger	

CONFIRMATION NO. 2879

PAUL R. KATTERIE
ABB INC.
29801 EUCLID AVENUE
WICKLIFFE, OH 44092-1832

OC000000024861305

Date Mailed: 07/17/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2007.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/608,353	06/27/2003	Harold R. Younger	

CONFIRMATION NO. 2879

HAROLD R. YOUNGER
P.O. BOX 174
HALIFAX, VA 24558

OC000000024861150

Date Mailed: 07/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

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MAY 09 2008

OFFICE OF PETITIONS

In re Application of :
Miles, et al. :
Application No. 10/608,362 : DECISION GRANTING PETITION
Filed: June 26, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 023US1 :

This is a decision on the petition, filed December 17, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 27, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 3733 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/608,362	06/26/2003	Patrick Miles	023US1

CONFIRMATION NO. 2877

30328
JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO, CA 92121

NONPUBLICATION RESCISSION LETTER

Date Mailed: 05/08/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is WDNP.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/kathornton mclaughl/

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

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
DW 02-04

CLARIANT CORPORATION
ATTENTION; INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Harada et al. :
Application No. 10/608,392 : ON PETITION
Filed: 27 June, 2003 :
Attorney Docket No. 1998JP313/CIP :

This is a decision on the petition styled under 37 CFR 1.181 and filed on 25 September, 2003.

The petition is dismissed as moot.

Petitioners request that the above-identified application be accorded a filing date of 27 June, 2003.

A review of Office records reveals that the application has been accorded a filing date of 27 June, 2003. Therefore the petition is dismissed as involving a moot issue. A corrected filing receipt is enclosed for petitioners' records.

The petition fee has not been charged.

The application is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DI Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ALFRED A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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MAY 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Kight et al.	:	DECISION ON PETITION
Application No. 10/608,413	:	TO WITHDRAW
Filed: November 24, 2003	:	FROM RECORD
Attorney Docket No. 23952-0055	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that on November 23, 2005 the power of attorney to Antonelli, Terry, Stout & Kraus, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sutherland II
Sutherland, Asbill & Brennan, LLP
999 Peachtree Street
Atlanta GA 30309

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SUITE 1800
ARLINGTON, VA 22209

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OFFICE OF PETITIONS

In re Application of :
Peter J. Kight et al :
Application No. 10/608,414 : DECISION ON PETITION
Filed: November 24, 2003 : TO WITHDRAW
Attorney Docket No. 3350-0106C : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and others has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: William R. Silverio
Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309-3996

cc: Mr. Hans Dreyer
Director, Intellectual Property (Legal Department)
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Lawson et al.	:	DECISION ON PETITION
Application No. 10/608,415	:	TO WITHDRAW
Filed: June 30, 2003	:	FROM RECORD
Attorney Docket No. 23952-0103	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that on November 23, 2005 the power of attorney to Antonelli, Terry, Stout & Kraus, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sutherland II
Sutherland, Asbill & Brennan, LLP
999 Peachtree Street
Atlanta GA 30309

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SEP 18 2009

OFFICE OF PETITIONS

SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

In re Application :
Mary Elizabeth Lawson et al. :
Application No. 10/608,415 : DECISION ON APPLICATION
Filed: June 30, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 23952-0103 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed July 22, 2009. Applicant requests that the determination of patent term adjustment be corrected from 1132 days to 1916 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the 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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Mary Elizabeth Lawson	: DECISION ON REQUEST FOR
Patent Number	: 7660766	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : June 14 2006

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/608419 Patent No.: 6,932,268

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The above identified corrections are to correct typographical errors

7.20.6

SPE

2876
Art Unit

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

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OFFICE OF PETITIONS

In re Application of :
Peter J. Kight et al :
Application No. 10/608,420 : DECISION ON PETITION
Filed: June 30, 2003 : TO WITHDRAW
Attorney Docket No. 23952-0059 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

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

/Amelia Au/
Petitions Examiner
Office of Petitions

cc: Sutherland, Asbill, & Brennan, LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

cc: Mr. Hans Dreyer
Director, Intellectual Property
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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OFFICE OF PETITIONS

In re Application of	:	
Kight et al.	:	DECISION ON PETITION
Application No. 10/608,433	:	TO WITHDRAW
Filed: June 30, 2003	:	FROM RECORD
Attorney Docket No. 23952-0060	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that on November 23, 2005 the power of attorney to Antonelli, Terry, Stout & Kraus, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sutherland II
Sutherland, Asbill & Brennan, LLP
999 Peachtree Street
Atlanta GA 30309

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1300 NORTH SEVENTEENTH STREET
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OFFICE OF PETITIONS

In re Application of	:	
Kight et al.	:	DECISION ON PETITION
Application No. 10/608,439	:	TO WITHDRAW
Filed: June 30, 2003	:	FROM RECORD
Attorney Docket No. 3350-106D	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 20457 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Buck
Petitions Examiner
Office of Petitions

cc:

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

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPT.)
CHECKFREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

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Paper No.

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

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JUL 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,481,645	:	DECISION ON REQUEST
Helou, Jr et al.	:	FOR
Issue Date: January 27, 2009	:	RECONSIDERATION OF
Application No. 10/608,441	:	PATENT TERM ADJUSTMENT
Filed: June 27, 2003	:	and
Atty Docket No.40134.8001.US00	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 27, 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 nine hundred eighty-three (983) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-four (944) days.

The B delay is 562 days, not 563 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on June 28, 2006, and ended on January 10, 2008, *the day before* the RCE was filed. *See* 35 U.S.C. § 154(b)(1)(B)(i).

Further, a review of the record reveals that an additional period of reduction of 38 days pursuant to 37 CFR 1.704(c)(8) should have been entered. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

After the filing of a response on July 14, 2008, applicants filed three other papers. Specifically, applicants filed Information Disclosure Statements (IDS) on July 15, 2008; July 17, 2008; and August 21, 2008. Patentees do not address these IDSs on instant application for patent term adjustment. The record supports a conclusion that the IDSs were not expressly requested by the examiner. Further, none of the IDSs included a §1.704(d) statement . Thus, the IDSs remain supplemental papers within the meaning of 37 CFR 1.704(c)(8). Accordingly, the patent term adjustment should have been reduced by 38 days, the number of days beginning on the day after the date the initial reply was filed, July 15, 2008, and ending on the date that the third supplemental paper was filed, August 21, 2008.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred forty-four **(944)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,481,645 B2

DATED : **January 27, 2009** **DRAFT**

INVENTOR(S) : Helou, Jr et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 420 days

Delete the phrase "by 420 days" and insert – by 944 days--

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820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

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APR 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Error et al.	:	DECISION ON PETITION
Application No. 10/608,442	:	TO WITHDRAW
Filed: June 26, 2003	:	FROM RECORD
Attorney Docket: OMN7133	:	

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 4, 2010.

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

A review of the file record indicates that Raubvogel Law Office was revoked as power of attorney by the assignee of the patent application on February 5, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

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

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
David D. Huo :
Application No. 10/608,445 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 29250-000763/US :

This is a decision on the papers styled, "Petition Under 37 CFR 1.53(e) To Maintain Original Filing Date" filed May 18, 2004, requesting that the above-identified application be accorded a filing date of June 30, 2003, including one (1) sheet of drawings.

The application was submitted on June 30, 2003. However, on April 12, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on May 18, 2004, the present petition was filed wherein petitioner argues that one (1) sheet of drawings was filed on June 30, 2003. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of one (1) sheet of drawings on June 30, 2003. A review of the application file indicates the presence of zero (0) sheets of drawings. It is assumed that missing sheet of drawings was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee has not been charged.

This application will be returned to OIPE for further processing with a filing date of June 30, 2003, using the one (1) sheet of drawings, supplied on May 18, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No.

WOLF BLOCK SCHORR AND
SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK, NY 10177

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Strasser et al. :
Application No. 10/608,450 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 9024.1011:

This is in response to the paper styled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)" filed February 13, 2006.

The application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 27, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No extension of time considered timely filed and no reply considered received, a Notice of Abandonment was mailed on February 3, 2006.

In response, applicants promptly filed the instant petition. Applicants assert that a response, made timely by a certificate of mailing and an accompanying petition for extension for response to the second month, was mailed on November 28, 2005. Applicants acknowledge that the incorrect application number was inadvertently noted on the response.

Consideration of applicants' arguments is unnecessary. A review of the record reveals that the reply, including the extension of time, was received in the Office. Further, their receipt is considered timely as the reply (and extension) both bear a certificate of mailing dated (Monday) November 28, 2005. The

reply (and extension) is of record in the application, having been moved from the electronic record of the incorrectly identified application to the record of the instant application.

In view thereof, the notice of abandonment mailed February 3, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2837 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response filed December 1, 2005 (certificate of mailing November 28, 2005).

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis MO 63102

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Tang
Application No. 10/608,460
Filed: June 27, 2003
Attorney Docket No. 130398
For: SCATTER CORRECTION METHODS AND APPARATUS

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO CORRECT FILING DATE OF FILED APPLICATION," filed February 17, 2004, requesting that the above-identified application be accorded a filing date of June 27, 2003, instead of the presently accorded filing date of November 5, 2003. The petition will be treated under 37 CFR 1.181.

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

The application was filed on June 27, 2003. On September 24, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of June 27, 2003 and informing petitioner that page 10 of the specification appeared to have been omitted.

On November 5, 2003, petitioner filed a preliminary amendment.

An Updated Filing Receipt was mailed on December 5, 2003. The Update Filing Receipt stated that the filing date of the above-identified application was November 5, 2003.

In response to the Notice, petitioner filed the present petition.

The mailing of a "Notice of Omitted Items" permits an applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Failure to select option (1) or (2) above is considered a constructive acceptance of the application as filed.

In the instant case, petitioner did not select option (1) or (2). The November 5, 2003 submission is clearly a preliminary amendment.

What is most salient to the analysis at hand is what petitioner did **NOT** do. Petitioner did not file a petition under 37 CFR 1.182 and required fee. Petitioner did not file a supplemental oath/declaration referring to omitted page 10. In short, petitioner did not ask for a later filing date.

Instead, petitioner accepted the application as filed on June 27, 2003 and submitted a preliminary amendment adding material (presumably the material on omitted page 10), so that the examiner could determine whether the submission contained new matter (see MPEP 608.02(h)).

The application is entitled to a filing date of June 27, 2003. The Updated Filing Receipt was mailed in error. The petition is **GRANTED**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **June 27, 2003** and the mailing of a corrected filing receipt. The examiner of record will consider the November 5, 2003 Amendment with respect to new matter issues.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

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OFFICE OF PETITIONS

In re Application of :
Miki Iwamoto et al :
Application No. 10/608,478 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 10844-27US

This is a decision on the petition, filed January 25, 2005, 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 January 10, 2005 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 will be forwarded to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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MCLEAN VA 22102

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Wilhelmus Engelen et al. :
Application No. 10/608,502 : DECISION ON
Deposited: June 30, 2003 : PETITION
Attorney Docket No. P304563-WIT/P58129US :

This is a decision on the petition filed June 28, 2004 under 37 CFR 1.53 to accord a filing date.

Application papers in the above-identified application were deposited June 30, 2003. However, on June 1, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification with at least one claim, as prescribed by 35 U.S.C. 112 was missing.

In response to the Notice mailed June 1, 2004, petitioner properly proffered a copy of a date stamped return receipt which corroborated petitioners assertion that the application had been filed with a four (4) page specification, (at least one claim was included in the proffered specification).

Based on petitioners' representations it appears that the specification and drawings were present in the Office on June 30, 2003. However, as required, copies of the complete application papers filed on June 30, 2003 are not filed with the instant petition. Thus, the petition is **DISMISSED** without prejudice to reconsideration because petitioners have not supplied a copy of the specification filed on June 30, 2003. The specification submitted with the petition is not four (4) pages in length as indicated on the postcard receipt. Petitioners must supply copies of the specification with a renewed petition.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing as an incomplete application.

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

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

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497. Also, effective September 28, 2004, the telephone number for the Office of Petitions will change to (517) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Thomas Wilhelmus Engelen et al. :
Application No. 10/608,502 : DECISION ON
Deposited: June 30, 2003 : PETITION
Attorney Docket No. P304563-WIT/P58129US :

This is a decision on the renewed petition filed August 30, 2004 and supplemented on November 9, 2004 under 37 CFR 1.53 to accord a filing date.

Application papers in the above-identified application were deposited June 30, 2003. However, on June 1, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Reissue Application," notifying applicant that the application had not been accorded a filing date because a complete specification with at least one claim, as prescribed by 35 U.S.C. 112 was missing.

In response to the Notice mailed June 1, 2004, petitioner properly proffered a copy of a date stamped return receipt which corroborated petitioners assertion that the application had been filed with a four (4) page specification, (at least one claim was included in the proffered specification) and based on petitioners' representations it appears that the specification and drawings were present in the Office on June 30, 2003.

However, the petition was dismissed in a decision mailed July 26, 2004 because a copy of the specification was not included with the petition

Copies of the four (4) page specification have now been submitted thus satisfying the requirements as set out in the Notice mailed June 1, 2004 and thus completing the application.

In view of the foregoing, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee will be refunded to deposit account no. 03-3975, as requested.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 30, 2003, using the application papers received in the Office on that date and the specification resubmitted on petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APR 23 2010

OFFICE OF PETITIONS

Raubvogel Law Office
820 Lakeview Way
Redwood City, CA 94062

In re Application of :
Brett Error et al. :
Application No. 10/608,515 : DECISION ON PETITION
Filed: June 26, 2003 : TO WITHDRAW
Attorney Docket No. OMN7132 : 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 4, 2010.

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

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 48334 have been revoked by the assignee of the patent application on February 5, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: M.H.K.K.G., P.C./Adobe Systems Incorporated
P.O. Box 398
Austin, TX 78767-0398

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

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APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Kight et al.	:	DECISION ON PETITION
Application No. 10/608,548	:	TO WITHDRAW
Filed: December 1, 2003	:	FROM RECORD
Attorney Docket No. 3350-106B	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and the attorneys/agents associated with Customer Number 20457 was revoked by the assignee of the patent application on July 20, 2005. However, the revocation was not accompanied by a Statement under 37 CFR 3.73(b), as required when an assignee wishes to take action in an application. Nevertheless, a Declaration and Power of Attorney was submitted on January 13, 2006, signed by the applicants, appointing the attorneys/agents associated with Customer Number 29052. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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 Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: WILLIAM R. SILVERIO, ESQ.
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA GA 30309-3996

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Paper No.

Merchant and Gould
P. O. Box 2903
Minneapolis, MN 55402-0903

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Grant H. Wurdell, et al. :
Application No. 10/608,583 : ON PETITION
Filed: June 23, 2003 :
Attorney Docket No. 2968.230USU1 :

This is in response to the petition under 37 CFR 1.47(a), filed November 28, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Grant H. Wurdell
4432 Tonkawood Road
Minnetonka, MN 55345

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OFFICE OF PETITIONS

In re Application of
Grant Wurdell; and Steven J. Fitzsimmons
Application No. 10/608,583
Filed: June 23, 2003
For: WASTELESS LAMINATOR

Dear Mr. Wurdell:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Merchant and Gould
P. O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
James M. Sweet, et. al. :
Application No. 10/608,591 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. D/A2555Q1 :

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed September 11, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 12, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief with $510 fee; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

In re Application of :
Kuszmaul, et al. : DECISION ON PETITION
Application No. 10/608,621 :
Filed: June 27, 2003 :
Docket No.: 7830-007-999 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 21, 2006.

This application was held abandoned December 8, 2004 for failure to timely submit a proper reply to the non-final Office action mailed September 7, 2004. Notice of Abandonment was mailed March 22, 2006.

Petitioners assert that a response to the non-final Office action and a petition for extension of time were timely filed on March 7, 2005. Petitioners have submitted as proof of USPTO receipt of the reply a date-stamped return postcard. Petitioners further indicate that the response consisted of a continuation application along with a petition for extension of time.

A review of the record reveals that on March 7, 2005, a petition for three month extension of time as well as a continuation application (U.S. App. No. 11/077,565) were filed. In view thereof, a reply to the non-final Office action was in fact timely received. In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The purpose of the instant decision is for that solely of continuity. As continuity has been established by this decision, the application is now abandoned in favor of the continuation Application No. 11/077,565, filed March 7, 2005.

The application file is being forwarded to Technology Center 2100 for issuance of a Notice of Abandonment.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
James E. Chandler, et al. :
Application No. 10/608,633 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 42P16887 :

This is a decision on the petition, filed December 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 2, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114 filed December 20, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/24/2010

Applicant	: Mark R. Albrecht	: DECISION ON REQUEST FOR
Patent Number	: 7668763	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/608,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Pawlak, et al. :
Application No. 10/608,704 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 2003P07963 US :
For: NON-CIRCULAR-ORBIT DETECTION METHOD AND APPARATUS

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed March 12, 2008, which set a two month non-extendable period for reply. No reply being received in the Office, this application became abandoned on May 13, 2008. A Notice of Abandonment was mailed on June 12, 2008.

Applicants have submitted a proper reply to the March 12, 2008 Notice in the form of replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the March 12, 2008 Notice, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record until an acceptable change of correspondence address is filed.

All requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the file will be returned to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: VINCENT M. DELUCA
1300 I ST., NW
SUITE 1000 WEST TOWER
WASHINGTON D.C. 20005

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MORRISON & FOERSTER LLP
35TH FLOOR
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JUN 20 2006

OFFICE OF PETITIONS

In re Application of :
Shinya Sakurada :
Application No. 10/608,713 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 393032038500

This is a decision on the petition filed, June 8, 2006 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 May 30, 2005 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 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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JUN 2 2004

Office of the Director
Group 3600

PHILIP A. DALTON
236 West Portal Avenue #15
San Francisco, CA 94127

In re application of :
Andrew J. Toti :
Application No. 10/608,716 :
Filed: June 27, 2003 :
For: SPRING DRIVE SYSTEM AND WINDOW COVER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Toti indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/pav: 5/22/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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G. VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET, SUITE 984
SAN FRANCISCO CA 94102

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Panjwani :
Application No. 10/608,746 : DECISION
Filed 27 June, 2003 :
Attorney Docket No. **SEC-1 (SA-04)** :

This is a decision on the petition filed on 2 September, 2008, 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

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

Petitioners' attentions always are drawn to the Commentary at MPEP §711.03(c).

Petitioner seeks to provide the documentation in compliance with the Commentary at MPEP §711.03(c)(A) and/or (B) as it is set forth on the website (and included for reference herein).[1]

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[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

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

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

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

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 11 August, 2006, with reply due absent extension of time on or before 11 November, 2006.

The instant application went abandoned by operation of law after midnight 11 November, 2006.

The Office mailed the Notice of Abandonment on 30 March, 2007.

On 2 September, 2008, Petitioner submitted the instant petition, *inter alia*, an averment that on 5 October, 2004, he filed, inter alia, a petition and fee , a revocation/power of attorney, a certificate pursuant to 37 C.F.R. §3.73(b) and preliminary amendment, and supported the averment with a copy of a date-stamped ("OCT 5 2004) receipt card—and the record in IFW evidences the petition and amendment and power of attorney—however that information was not entered and

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B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f).
Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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the 11 August, 2006 non-final Office action was mailed to an improper address. The failure of the Office to properly and timely enter that change is the central and controlling showing in that regard.) Petitioner supplemented his petition on or about 29 September, 2008, in compliance with MPEP §711.03(c).

Thus, Petitioner appears to comply with the guidance in the Commentary at MPEP §711.03(c), which sets forth the showing requirements herein.

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 that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the30 March, 2007, Notice of Abandonment is **vacated**.

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[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: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant application is released to Technology Center/AU 2132 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 Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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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Paper No. 020204

PEPPER HAMILTON LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

FEB 9 2004

In re Application of:
BUI *et al.*
Serial No.: 10/608,747
Filed: June 27, 2003
Attorney Docket No.: **53597.1501**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 17, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by James M. Singer, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Clark A. Jablon, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: AKIN, GUMP, STRAUSS, HAUER AND FELD
Attn: Mr. Clark A. Jablon
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103

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SEP 24 2004

TECHNOLOGY CENTER 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

In re application of : **DECISION ON PETITION**
Rickey L. Morgan, et al : **TO MAKE SPECIAL**
Application No. 10/608,748 : **(APPLICANT'S AGE)**
Filed: June 27, 2003 :
For: CEMENT COMPOSITIONS WITH IMPROVED FLUID LOSS CHARACTERISTICS AND METHODS OF CEMENTING IN SURFACE AND SUBTERRANEAN APPLICATIONS

This is a decision on the petition submitted on June 27, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Ronney R. Koch indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 8/5/04

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SALT LAKE CITY, UT 84110

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Chad Cobbley, et al. :
Application No. 10/608,750 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No.: 3394.5US (97-0299.04/US) :
:

This is a decision on the petition, filed December 30, 2005, 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 May 13, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2854 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice 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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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/26/2010

Applicant	: Laurie Allen	: DECISION ON REQUEST FOR
Patent Number	: 7647257	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/608,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1270** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PAGE 1/1 * RCVD AT 9/9/2009 11:20:54 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-46

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10608766 Patent No.: 7317815

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Director's SPE response to 571-270-9898

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: _____

VIKRAM BALI — 2624 SPE

09/09/2009 10:23 FAX 0001/0001

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JOHNS MANVILLE
Legal Department
10100 West Ute Avenue
Littleton, CO 80127

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OFFICE OF PETITIONS

In re Application of Jaffee :
Application No. 10/608,790 : Decision on Petition
Filing Date: June 27, 2003 :
Attorney Docket No. 7302 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on December 11, 2008. The Office action set a shortened statutory period for reply of three (3) months. A reply was timely filed February 11, 2009. However, the examiner determined the reply was improper for the reasons listed on the Advisory Action mailed February 24, 2009. Petitioner did not file any further reply or request an extension of time. Therefore, the application became abandoned on March 12, 2009. A Notice of Abandonment was mailed on July 21, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has satisfied requirement (1). Specifically, petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination and submission.

Petitioner has satisfied requirement (2). Specifically, petitioner has submitted the required petition fee of $1,620.

With respect to requirement (3), 37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition varies from this exact language, the statement has been construed as the equivalent of the statement above. If the entire delay from the date of abandonment, March 12, 2009, until the date the petition was filed, July 20, 2009, was not unintentional, petitioner must notify the Office. In view of the foregoing discussion, petitioner has satisfied requirement (3).

Petitioner has satisfied requirement (4) in so far as a terminal disclaimer is unnecessary in the instant case.

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

Technology Center Art Unit 1794 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7574016	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Eran Steinberg, et al. :
Application No. 10/608,811 : DECISION ON PETITION
Filed: June 26, 2003 : TO WITHDRAW
Attorney Docket No. FN102-D : 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 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FOTONATION IP DEPT
800 AIRPORT BLVD.
SUITE 522
BURLINGAME, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANNER & WITCOFF LTD
1100 13TH STREET NW
SUITE 1200
WASHINGTON DC 20005-4051

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JUL 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,444,508 :
Issue Date: October 28, 2008 :
Application No. 10/608,818 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 004770.00134 :

This is a decision on the "PETITION FOR CORRECTION OF ASSIGNEE INFORMATION", filed June 9, 2009.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a) is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/09/09 Paper No.: _____

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10608819 Patent No.: 7269292 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

[redacted]

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: _____

VIKKRAM BALI
2624
SPE/AU

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PAGE 1/1 * RCVD AT 9/9/2009 11:20:11 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/16 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-32

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10608824 Patent No.: 7315630

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

VIKKRAM BALI 2624 SPE

09/09/2009 10:22 FAX 0001/0001

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SEP 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Derrick Jefferson
1844 5th Avenue
Apt. 5
Oakland CA 94606

In re Application of:
Derrick H. JEFFERSON
Application No. 10/608,839
Filed: June 25, 2003
For: VEHICLE COLLISION DETECTOR AND ALERT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed June 25, 2003.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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AUG 17 2005

In re Application of MURPHY ET AL.
Appl. No.: 10/608,844
Filed: June 27, 2003
For: **FRAME-BASED BLADDER APPARATUS FOR SEAT OCCUPANT WEIGHT ESTIMATION**

WITHDRAWAL FROM ISSUE
37 CFR 1.313

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 therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have 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 Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for prompt and appropriate action.

All inquiries should be directed to SPE Kamand Cuneo at 571-272-1957.

Richard Seidel
Director
Patent Examining Technology Center 2800

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

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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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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Brian Kivisto :
Application No. 10/608,847 : NOTICE
Filed: June 27, 2003 :
Attorney Docket No. 1768.13US02 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

GRAYBEAL JACKSON HALEY LLP
155-108TH AVENUE N.E., SUITE 350
BELLEVUE, WA 98004-5973

In re Application of :
Francesco Ciovacco et al :
Application No. 10/608,855 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 2110-47-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 20, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 21, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 12, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $570 extension of time submitted with the petition on February 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2811 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7616233	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1008** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100108

DATE : August 31, 2009

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7,362,368

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Tracy A. Gast, et al. :
Application No. 10/608,894 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. FSI0099/US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 1, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 2, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
Storer et al.	:	
Application No. 10/608,907	:	ON APPLICATION FOR
Filed: June 27, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 11874-055-999	:	
Title: MODIFIED 2' AND 3'-NUCLEOSIDE PRODRUGS FOR TREATING FLAVIVIRIDAE INFECTIONS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 2, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, four hundred and thirty-three (1433) days, not two hundred and forty-three (243) 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.

A decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.182 which seeks the withdrawal of a terminal disclaimer will be mailed under separate cover.

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]

---

[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 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 decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 04 2009

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :
Storer et al. :
Application No. 10/608,907 :
Filed: June 27, 2003 :
Attorney Docket No. 11874-055-999 :
Title: MODIFIED 2' AND 3'-NUCLEOSIDE:
PRODRUGS FOR TREATING FLAVIVIRIDAE :
INFECTIONS :

DECISION ON
PETITION PURSUANT TO
37 C.F.R. § 1.182

This is in response to the petition pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer, filed on July 2, 2009.

This petition is **GRANTED**.

On July 24, 2008, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over pending U.S. application number 11/005,445, in a non-final Office action mailed January 28, 2008.

With this petition, Petitioner has submitted the petition fee and a request that the terminal disclaimer that is associated with pending U.S. application number 11/005,445 be withdrawn.

The Examiner has reviewed Petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn. An Office communication from the Examiner has been enclosed with this decision.

The previously filed terminal disclaimer is hereby **WITHDRAWN**.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify

the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries *regarding this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Office communication

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 17 2010

OFFICE OF PETITIONS

Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,608,600	: DECISION ON REQUEST
Storer et al.	: RECONSIDERATION OF
Issue Date: October 27, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/608,907	: and
Filed: June 27, 2003	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: 11874-055-999	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and twenty (1420) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and twenty (1420) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, four hundred and twenty (1420) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,608,600 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : **Storer et al.**

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 918 days

Delete the phrase "by 918 days" and insert – by 1420 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Richard Storer	: DECISION ON REQUEST FOR
Patent Number	: 7608600	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/608,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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SEP 21 2006

OFFICE OF PETITIONS

Law Offices of Mark C. Pickering
P.O. Box 300
Petaluma, CA 94953

In re Application of :

Nicholas Grant Rasmussen et al. :
Application No. 10/608,935 : DECISION ON PETITION
Filed: June 27, 2003 : TO WITHDRAW
Attorney Docket No. 300-80100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark C. Pickering 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Lucas Digital LTD., LLC**
P.O. Box 2459
San Rafael, CA 94912

cc: **Fish & Richardson**
12390 El Camino Real
San Diego, CA 92130

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OFFICE OF PETITIONS

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,472,046 : DECISION ON APPLICATION FOR
Issued: December 30, 2008 : PATENT TERM ADJUSTMENT
Application No. 10/608,935 :
Filed: June 27, 2003 :
Dkt. No.: 20567-023001 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed February 27, 2009.

Patentee requests that the determination of patent term adjustment be increased from days to 763 days to 1,859 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The application matured into U.S. Patent No. 7,472,046 on December 30, 2008 with a revised patent term adjustment of 763 days. The application was filed June 27, 2003. A request for continued examination was filed August 29, 2008. On February 27, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,859 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays occur on the same day. Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1,890 days. Further, given the applicant delay of 31 days, patentee asserts entitlement to 1,859 days of patent term adjustment (1,890 days – 31 days) of patent term adjustment.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).
35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 27, 2003, and ending on the date of filing of a request for continued examination (RCE), August

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

29, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 762 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 794 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application, time having ceased accruing upon submission of the request for continued examination.

The 762 days of patent term adjustment accrued under 37 CFR 1.702(a) overlaps with the 794 days of patent term adjustment under 37 CFR 1.702(b). Entry of both the 794 days and the 762 days is neither permitted nor warranted given that 794 days is the actual number of days issuance of the patent was delayed at the time the RCE was filed.

The Office determined that the 762 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a) accorded prior to the filing of the request for continued examination overlaps with the 794 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b). As such, the Office allowed only entry of the actual period of delay, to wit, 794 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 31 days and the overall adjustment of 794 days, the patent issued with a revised patent term adjustment of 763 days.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction on Patent No.: **7021437 B2 – 10/608936**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

_____

_____

_____

_____

_____

_____ 3781
SPE **Art Unit**

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Hilda Virginia Martin
400 Gloucester Street
Hampton VA 23661

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No.: 10/608954	:	DECISION ON
Filing or 371(c) Date: 06/30/2003	:	PETITION
Title of Invention:	:	
CHAIRBACK BIBLE/BOOK HOLDER	:	

This is a decision in response to the correspondence framed as a grievance report, filed May 9, 2006. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 14, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned September 15, 2005. A Notice of Abandonment was mailed January 26, 2006.

The present petition

Applicant files the present petition and provides that the reply failed to include the correct application number. No copy of the reply has been filed.

Applicable Law, Rules and MPEP

The MPEP, 711.03(c), Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed, states:

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).
37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

Analysis

Applicant has failed to demonstrate compliance with 37 CFR 1.10 (filing of the correspondence by Express Mail), or 37 CFR 1.8 (filing of correspondence using the certificate of mail procedures). As such, Applicant has failed to demonstrate that a reply to the Office action was timely filed.

Applicant asserts that a timely reply was filed but included an incorrect serial number. Applicant is advised that minor errors in the identification of papers filed in this Office may be excused, provided the papers included other sufficient identifiers that would allow this Office to quickly identify the application file to which the papers were intended to be filed. The MPEP 502 states:

> All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.

The petition is dismissed without prejudice. Applicant should file a "Request for Reconsideration of Petition" and include a copy of the correspondence that was filed in response to the June 14, 2005 office action.

If Applicant is unable to demonstrate compliance with the rules, an alternate avenue of relief is available.

Alternate Venue

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00 for a small entity[1].

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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[1] Applicant is further advised that a grantable petition under 37 CFR 1.137(b) requires, in addition to the petition and petition fee, the required reply, to wit, an acceptable appeal brief; a continuing application; a Request for Continued Examination ("RCE"), or a reply that places the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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In re Application of :
David E. Rodrigues :
Application No. 10/608976 :
Filing or 371(c) Date: 06/27/2003 : ON PETITION
Attorney Docket Number: :
RD28584-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 12, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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 the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 1751 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

CC: DAVID E. RODRIGUES
55 GRIFFITH ROAD SOUTH
BLOOMFIELD, CT 06002

Encosure: PTO/SB/82 (Revocation of Power of Attorney and Change of Address Form)

PTO/SB/82 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint the practitioners associated with the Customer Number:

☐ Please change the correspondence address for the above-identified application to:

☐ The address associated with Customer Number:

OR

☐ Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the:

☐ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name			
Date		Telephone	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Steven Reynolds, et al. :
Application No. 10/609,000 : DECISION ON PETITION
Filed: June 26, 2003 : TO WITHDRAW
Attorney Docket No. 577172001020 : 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 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON, PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Steven Reynolds, et al. :
Application No. 10/609,000 : DECISION ON PETITION
Filed: June 26, 2003 : TO WITHDRAW
Attorney Docket No. INTE.27USF1 (ITC31) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Kesser does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc:

MARC KAUFMAN, ESQ.
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

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RAUBVOGEL LAW OFFICE
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

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APR 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Error et al.	:	DECISION ON PETITION
Application No. 10/609,008	:	TO WITHDRAW
Filed: June 27, 2003	:	FROM RECORD
Attorney Docket No. OMN8054	:	

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 4, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 19, 2010 the power of attorney to Raubvogel Law Office was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN TX 78767-0398

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Paper No.

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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In re Application of	:	
Karjala et al.	:	
Application No. 10/609,011	:	LETTER REGARDING
Filed: June 30, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 004770,00133	:	

This letter is in response to the "MISCELLANEOUS PAPER CONCERNING PATENT TERM ADJUSTMENT" filed August 14, 2008. Pursuant to their duty of good faith and candor to the Office, applicants request review of the initial determination of patent term adjustment of seven hundred fifty-one (751) days.

The request for review of the initial determination of patent term adjustment (PTA) is **DISMISSED.**

On July 9, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 751 days. In an abundance of caution, applicants bring to the Office's attention the filing of an authorization for an Examiner's amendment filed by applicants on July 2, 2008.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or

examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

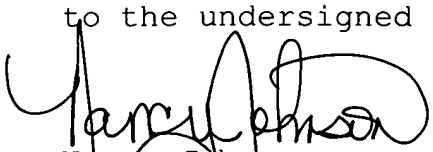
In this instance, after filing a response to the final Office action on April 30, 2008, on July 2, 2008, applicants filed the subject authorization for Examiner's amendment. Applicants' comments have been considered, and the record has been reviewed. This evidence supports a conclusion that the letter filed July 2, 2008 was expressly requested by the Examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, entry of a period of reduction, pursuant to § 1.704(c)(8), is not warranted.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance of SEVEN HUNDRED FIFTY-ONE (751) days is correct.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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

Mail Date: 06/28/2010

Applicant	: Franck Le	: DECISION ON REQUEST FOR
Patent Number	: 7636569	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/609,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FEB - 1 2005

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of :
Cooper et al.
Serial No.: 10/609,019
Filed: June 26, 2003
Attorney Docket No.: 51687-0101 (287015)

: PETITION TO MAKE SPECIAL

This is in response to applicants petition filed January 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was received by check. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of
Mark R. Albrecht
Application No. 10/609,033
Filed: June 27, 2003
Attorney Docket No. 29321/2002B

ON PETITION

This is a decision in response to the petition, filed December 16, 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 December 28, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on November 26, 2008. On December 16, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3627 for appropriate action by the Examiner in the normal course of business on the amendment received December 16, 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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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Raymund F. Eich, Ph.D.
Williams, Morgan & Amerson P.C.
Suite 1100
10333 Richmond
Houston TX 77042

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Yang, Ching & Cai
Application No.: 10/609,050
Filed: June 27, 2003
Attorney Docket No.: 2039.017500
For: OXYGEN SCAVENGING POLYMERS AS ACTIVE BARRIER TIE LAYERS IN MULTILAYERED STRUCTURES

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 27, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The instant application was filed on June 27, 2003 with a partially executed oath or declaration and a petition under 37 CFR 1.47(a). The petition, signed by Agent Eich, explains that non-signing joint inventor Cai was mailed and received a copy of the application and declaration for the above-identified application, but did not respond to two separate written requests that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of non-signing inventor Cai is not included on the declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

Both signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Cai's citizenship and residence/ post office address.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

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
Attn: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
Attn: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions - E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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2039.017500

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Previously ___ Not Required
Action Required Request for Reconsideration
Pubs. Info
Appl. Grant Info
Done 3-20-04
By

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JAN 2 0 2004
OFFICE OF PETITIONS

Raymund F. Eich, Ph.D.
Williams, Morgan & Amerson P.C.
Suite 1100
10333 Richmond
Houston TX 77042

In re Application of
Yang, Ching & Cai
Application No.: 10/609,050
Filed: June 27, 2003
Attorney Docket No.: 2039.017500
For: OXYGEN SCAVENGING POLYMERS AS ACTIVE BARRIER TIE LAYERS IN MULTILAYERED STRUCTURES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

DOCKETING DEPT.
JAN 2 3 2004
WILLIAMS, MORGAN & AMERSON

This is a decision on the petition under 37 CFR 1.47(a), filed June 27, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The instant application was filed on June 27, 2003 with a partially executed oath or declaration and a petition under 37 CFR 1.47(a). The petition, signed by Agent Eich, explains that non-signing joint inventor Cai was mailed and received a copy of the application and declaration for the above-identified application, but did not respond to two separate written requests that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of non-signing inventor Cai is not included on the declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

Both signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Cai's citizenship and residence/ post office address.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

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
Attn: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
Attn: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions - E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Yang, Ching & Cai
Application No.: 10/609,050
Filed: June 27, 2003
Attorney Docket No.: 2039.017500
For: OXYGEN SCAVENGING POLYMERS AS ACTIVE BARRIER TIE LAYERS IN MULTILAYERED STRUCTURES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 9, 2004 (certificate of mailing date February 5, 2004).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Gangfeng Cai, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the original petition, signed by Agent Eich, explains that non-signing joint inventor Cai was mailed and received a copy of the application and declaration for the above-identified application, but did not respond to two separate written requests that he sign the declaration for the patent application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Publications Division.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GANGFENG CAI
2502 EARLY BIRD LANE
ARLINGTON, TX 76001

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Yang, Ching & Cai :
Application No.: 10/609,050 : LETTER
Filed: June 27, 2003 :
Attorney Docket No.: 2039.017500 :
For: OXYGEN SCAVENGING POLYMERS AS ACTIVE BARRIER TIE LAYERS IN MULTILAYERED STRUCTURES

Dear Mr. Cai:

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.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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CYPRESS TX 77410-1017

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OFFICE OF PETITIONS

In re Application of	:	
Shaoling Li et al	:	
Application No. 10/609,061	:	DECISION GRANTING PETITION
Filed: June 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ARC 3162 R1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 27, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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AUG 3 2004

DCM

In re Application of
Selvamanickam
Serial Number: 10/609,065
Filed: June 26, 2003
For: APPARATUS FOR CONSECUTIVE DEPOSITION OF HIGH-TEMPERATURE SUPERCONDUCTING (HTS) BUFFER LAYERS

PETITION UNDER
M.P.E.P.708.02 IX

This is in response to the petition filed February 12, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IX of the MPEP and 37 CFR 1.102 (b) (**no fee required**).

The request for Special Status considered under Section 708.02 IX of the MPEP is granted because criteria under 37 CFR 1.102(b) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Serle Mosoff
KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

10/17/03

Fay Sharpe Fagan Minnich and McKee LLP
1100 Superior Avenue 7th Floor
Cleveland OH 44114-2518

Dear Applicant:

The Box PGPub replacement drawings for application number 10/609,117 received on 8/20/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

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Signature of Reviewer, Office of Initial Patent Examination

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P.O. Box 1450
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NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Boeckle et al.	:	
Application No. 10/609,132	:	ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. 0133.00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on January 11, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND, OR 97204-1268

In re Patent No. 6,941,963	:	
Issue Date: September 13, 2005	:	
Application No. 10/609,134	:	NOTICE
Filed: June 16, 2003	:	
Attorney Docket No.: 11429/13:1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

PET. DEC.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 4/19/05

meb
Paper Number: _____

In re application of
David K. Lewis

Serial No. 10/609,135
Filed: June 27, 2003
For: Systems And Methods For Surface Pasteurization Of Produce

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed January 26, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 19, 2004 for failure to timely respond to the Notice To File Missing Parts of Non-Provisional Application, mailed September 23, 2003, be withdrawn. The petitioner asserts that the Notice To File Missing Parts of Non-Provisional Application, mailed September 23, 2003, was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(I).

The evidence presented is sufficient to establish that the Notice To File Missing Parts of Non-Provisional Application was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice To File Missing Parts of Non-Provisional Application was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice To File Missing Parts of Non-Provisional Application, mailed September 23, 2003 was not received. Also provided is a copy of the automated docketing record, where the Notice To File Missing Parts of Non-Provisional Application would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application shall be forwarded for consideration of the applicant's response, filed January 26, 2005, to the Notice To File Missing Parts of Non-Provisional Application, mailed September 23, 2003.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KAREN B. DOW
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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STOEL RIVES LLP – PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

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OFFICE OF PETITIONS

In re Application of	:	
Maula et al.	:	
Application No. 10/609,136	:	ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. 11429/13:2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
SHAMS	:	
Application No. 10/609,137	:	DECISION ON PETITION
Filed: June 26, 2003	:	TO WITHDRAW
Attorney Docket No. SS1001	:	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 18, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James G. Gatto on behalf of all attorneys of record who are associated with Customer No. 00909. All attorneys/agents associated with the Customer No. 00909 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed. All future communications from the Office will be directed to the first named signing inventor at the address listed below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on July 14, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of July 14, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: SOHEIL SHAMS
BIODISCOVERY, INC.
2121 ROSECRANS AVE., SUITE 3315
EL SEGUNDO, CA 90245

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/609,137	06/26/2003	Soheil Shams	SSI001

CONFIRMATION NO. 6733

OC000000021531584

00909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

Date Mailed: 12/08/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

In re Application of
Soheil Shams
Application No. 10/609,137
Filed: June 26, 2003
Attorney Docket No.: SSI001

ON PETITION

This is a decision on the petition filed September 8, 2009, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on April 15, 2009 and a Notice of Abandonment was mailed on August 3, 2009, for failure to timely respond to the Final Office Action mailed January 14, 2009.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1631 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/16/03

Bromberg and Sunstein LLP
125 Summer Street
Boston MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/609,141 received on 8/8/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARCUS L. BATES
9002 SOUTH COUNTRY ROAD 1312
ODESSA, TX 79766

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
James D. Mahan :
Application No. 10/609,155 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. #903 :

This is a decision on the petition filed June 26, 2007 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 the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 13, 2007.

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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 18 2004

OFFICE OF THE DIRECTOR
TC 3600

CLIFFORD A. POFF
9800B MCKNIGHT ROAD
SUITE 115
PITTSBURGH, PA 15237

In re application of
Raymond G. Hasley
Application No. 10/609,169
Filed: June 27, 2003
For: BUILDING WITH TRIANGULAR FACADES

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 29, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

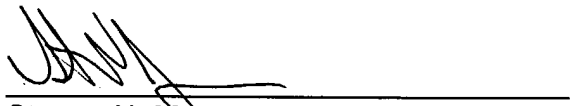
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Hasley indicating that she is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/slb: 6/16/04

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Paper No. None

PHILIP S. JOHNSON
JOHNSON & JOHNSON
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NEW BRUNSWICK NJ 08933-7003

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Daniel D. Auger, Mary J. Stewart, Gary S. Fenton, Steven G. Ingleson-Mace, David P. Thomas, and Frederic Turquier
Application No. 10/609,171
Filed: June 27, 2003
Attorney Docket No. DEP754NP
Title: KIT, GUIDE AND METHOD FOR LOCATING DISTAL FEMORAL RESECTION PLANE

DECISION ON PETITION

This is in response to the petition filed January 20, 2004 under 37 C.F.R. §1.47(a)[1] to accept the submitted declaration without the signature of joint inventor Turquier. The petition contains a certificate of mailing dated January 16, 2004.

The above-identified application was filed June 27, 2003, identifying Daniel D. Auger, Mary J. Stewart, Gary S. Fenton, Steven G. Ingleson-Mace, David P. Thomas, and Frederic Turquier as joint inventors. The application was deposited without an executed oath or declaration. On September 17, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and the surcharge associated with the late filing of an oath or declaration were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On January 20, 2004, the instant petition was filed, along with a statement of facts, a letter, and a declaration which has been executed by each of the joint inventors save inventor Turquier. Accompanying the petition was a statement from a former co-worker of the non-signing inventor, which sets forth that a complete copy of the application was sent to the last known address of the non-signing inventor, and that he refused to join in the application. Also included was a two-month extension of time, to make timely this response.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

Therefore, the petition under 37 C.F.R . §1.47(a) is **GRANTED**. This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of	:	
John Pope	:	
Application No. 10/609,173	:	LETTER REGARDING
Filed: June 27, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 1530	:	

This is in request to the "LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION" filed October 17, 2007. Applicants request that the Office review the 9-day term extension determined by the Office for the time period extending from the September 7, 2006, Response After Final Action to the January 16, 2007, mailing of the new Non-final Office Action.

The request for review of the initial determination of patent term adjustment (PTA) is **DISMISSED** to the extent that any correction to the PTA is requested.

The entry of the period of adjustment of 9 days pursuant to 37 CFR §§1.702(a)(2) and 1.703(a)(3) is correct. A review of the application history confirms that the amendment filed September 7, 2006 (and not the notice of appeal filed September 18, 2006) is properly considered a reply in compliance with § 1.113(c). As such, the period of reduction is 9 days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed, January 7, 2007, and ending on the date of mailing of an action under 35 U.S.C. 132, January 16, 2007.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance of **(465)** days is correct.

As this letter was submitted as an attempt to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Womble Carlyle Sandridge & Rice
P. O. Box 7037
Atlanta, GA 30357-0037

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Kirk W. Watkins :
Application No. 10/609,177 : DECISION GRANTING PETITION
Filed: June 26, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P150 1030.1 :

This is a decision on the petition, filed May 4, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 29, 2005 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on March 15, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. However, petitioner submitted the $300 publication fee and $700 issue fee along with the petition on May 4, 2005.

This application is being forwarded to Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

AUG 3 2004

DCM

In re Application of
Selvamanickam
Serial Number: 10/609,236
Filed: June 26, 2003
For: APPARATUS FOR AND METHOD OF COOLING AND POSITIONING A TRANSLATING SUBSTRATE TAPE FOR USE WITH A CONTINUOUS VAPOR DEPOSITION PROCESS

PETITION UNDER M.P.E.P.708.02 IX

This is in response to the petition filed February 12, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IX of the MPEP and 37 CFR 1.102 (b) **(no fee required)**.

The request for Special Status considered under Section 708.02 IX of the MPEP is granted because criteria under 37 CFR 1.102(b) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Serle Mosoff
KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JUL 20 2004

DCM

In re Application of
Selvamanickam
Serial Number: 10/609,250
Filed: June 26, 2003
For: APPARATUS FOR AND METHOD OF CONTINOUS HTS TAPE BUFFER LAYER DEPOSITION USING LARGE SCALE ION BEAM ASSISTED DEPOSITION

PETITION UNDER M.P.E.P.708.02 IX

This is in response to the petition filed June 26, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IX of the MPEP and 37 CFR 1.102 (b) **(no fee required)**.

The request for Special Status considered under Section 708.02 IX of the MPEP is granted because criteria under 37 CFR 1.102(b) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Serle Mosoff
KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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HOWISON & ARNOTT LLP
P.O. BOX 741715
DALLAS, TX 75374-1715

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Richard Acree :
Application No. 10/609,251 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. ACRE-26,390 :

This is a decision on the petition filed February 8, 2007 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 the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed January 3, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 4, 2005.

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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
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

John R. Flanagan
P. O. Box 2629
Eugene, OR 97402

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OCT 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Gregory James Newell :
Application No. 10/609,276 :
Filed: June 27, 2003 : DECISION ON
Title of Invention: : PETITION
RECONFIGURABLE POWER HANDLING DEVICE :

This is a decision in response to the Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181, filed May 22, 2006.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application 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 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application was filed on June 27, 2003. On September 29, 2003, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers requiring replacement drawings.

Applicant filed corrected Drawings on December 1, 2003.

Thereafter, this Office mailed a Notice of Incomplete reply (Nonprovisional) on January 16, 2004, informing Applicant that the reply filed December 1, 2003 was incomplete because the filing fee was insufficient. The Notice required additional filing fees and a returned-check surcharge. The Notice informed Applicant that the period for reply remained as set forth in the September 29, 2003 Notice.

On February 23, 2004, the Office mailed a Withdrawal of Previously Sent Notice, withdrawing the January 16, 2004 Notice of Incomplete reply (Nonprovisional), and also mailed a corrected Notice of Incomplete reply (Nonprovisional). The corrected Notice required additional filing fees and a returned-check processing fee. The Withdrawal of Previously Sent Notice informed Applicant that "[t]he time period for the reply runs from the mail date of the corrected Notice." (Emphasis supplied).

No reply to the corrected Notice was received. Accordingly, the application became abandoned April 24, 2004.

The instant petition

Applicant files the instant petition and provides that a comlete and proper reply to the September 29, 2003 Notice was filed. Applicant asserts that the Notice of Incomplete Reply (Nonprovisional), mailed January 14, 2004, was the first Notice applicant received regarding the insufficient fees and, as such, the Notice of Abandonment, which states that the application became abandoned for failure to reply to the September 29, 2003 Notice, is incorrect. Applicant and requests withdrawal of the holding of abandonment.

Applicable Law, Rules and MPEP

35 U.S.C. § 111(a)(3) states that "[t]he application must be accompanied by the fee required by law." 35 U.S.C. § 111(a)(4) states that "[u]pon failure to submit the fee… within such prescribed period, the application shall be regarded as abandoned."

Further to this, 37 CFR 1.53(f)(1) provides that

> [i]f an application which has been accorded a filing date pursuant to paragraph (b) or (d) of this section does not include the basic filing fee… applicant will be notified and given a period of time within which to pay the basic filing fee, search fee, and examination fee, file an oath or declaration in an application under paragraph (b) of this section, and pay the surcharge if required by § 1.16(f) to avoid abandonment.

Analysis and conclusion

An application becomes abandoned by operation of law for failing to timely submit the fee. See 35 U.S.C. § 111(a)(4). Here, Applicant was informed of the requirement to submit the fees and given two (2) months within which to submit the fees. Office records indicate that both the Withdrawal of Previously Sent Notice, withdrawing the January 16, 2004 Notice of Incomplete reply (Nonprovisional), and the corrected Notice of Incomplete reply (Nonprovisional), were mailed to Petitioner herein at the correspondence address specified in the New Power of Attorney filed January 5, 2004.

Applicant failed to timely reply to the corrected Notice within two (2) months of the mail date of the corrected Notice. Accordingly, the application became abandoned. While the Notice of Abandonment incorrectly states the reason for abandonment, the Notice does not affect the status of the application.

For the above reasons, the petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $1500, reduced to $750.00 for a small entity.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement
that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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John R. Flanagan
P. O. Box 2629
Eugene OR 97402

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of :
James Gregory Newell :
Application No.: 10/609276 : DECISION ON
Filing or 371(c) Date: 06/27/2003 : PETITION
Title of Invention: :
RECONFIGURABLE POWER :
HANDLING DEVICE :

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed October 12, 2006. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the corrected Notice of Incomplete Reply (Nonprovisional), mailed February 23, 2004. A Notice of Incomplete Reply, mailed January 16, 2004, was withdrawn on February 23, 2004. Applicant was so notified in a Withdrawal of Previously Sent Notice, mailed February 23, 2004. Also mailed on February 23, 2004 was a corrected Notice of Incomplete Reply (Nonprovisional). The Withdrawal of Previously Sent Notice informed Applicant that the time period for reply runs from the mail date of the corrected Notice. No reply having been received, the Application became abandoned April 24, 2004.

The May 22, 2006 petition

Applicant filed a petition on May 22, 2006, wherein Applicant asserted that the Notice of Incomplete Reply, mailed January 14, 2004, was the first Notice Applicant had received regarding insufficient fees and that the Notice of Abandonment, which stated that the application had become abandoned for failure to reply to the September 23, 2003 Notice, was incorrect. Applicant requested withdrawal of the holding of abandonment.

October 6, 2006 Decision dismissing Petition

A Decision dismissing the May 22, 2006 petition was mailed October 6, 2006. The Decision informed Applicant that the application became abandoned by operation of law for failing to timely submit the fee. Accord 35 U.S.C. § 111(a)(4). Having failed to submit the required fees, the application became abandoned. Applicant was informed that the Notice of Abandonment does not affect the status of the application. In other words, while the Notice of Abandonment may have erred in stating the reason for abandonment, the application was nevertheless abandoned for failing to timely and properly reply to the Notice of Incomplete Reply and submit the required fees.

The present petition

Applicant files the present petition and (1) asserts that this Office failed to discuss Applicant's assertion that Mr. Wallace of the PTO reported to Applicant that "no outstanding issues remained"; (2) provides a copy of the November 17, 2003 letter from this Office requiring Applicant to submit $385.00 filing fee and $50.00 processing fee for processing a returned check, and (3) a letter from the prior attorney of record responding to the Notice by filing $375.00 filing fee and $65.00 late payment fee. Applicant asserts that the total submitted, $440.00, was in excess of that required by this Office, $435.00, which supports the statement by Mr. Wallace that no outstanding issues remained.

Applicant argues that the corrected Notice of Incomplete reply was mailed in error and should be withdrawn.

Review of Office records

A review of office records reveals that the application filing fee, $375.00, was submitted via check by Applicant. The check was returned for insufficient funds. Thereafter, on December 29, 2003, Applicant submitted$375.00 for the filing fee and $65.00 for the late filing fee surcharge (total of $440.00).

The filing fee was $385.00. A fee due of $10.00 remained to complete the application filing fee.

This Office mailed a Notice of Incomplete Reply (Nonprovisional) on January 16, 2004, requiring the balance due to complete the filing fee, $10.00, and also required $50.00 processing fee for processing the returned check.

The Office withdrew the January 16, 2004 Notice, and mailed a corrected Notice of Incomplete Reply (Nonprovisional) on January 16, 2004, requiring the balance due to complete the filing fee, $10.00, and also required $50.00 processing fee for processing the returned check.

On May 22, 2006, Applicant submitted $60.00 with the petition.

Analysis

As to (1), Applicant is directed to 37 CFR § 1.2, Business to be transacted in writing, which states:

> 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.

As to (2) and (3), as demonstrated by Office records and as confirmed by the Attachment (f) filed with the present renewed petition, the filing fee and a late filing fee surcharge were submitted to this Office on December 29, 2003; however, the filing fee was deficient and the processing fee for the returned check had not been submitted.

Applicant asserts that the office communication mailed December 29, 2003 and referred to as Attachment (E), did not indicate that a late filing fee surcharge was due; however, Applicant is responsible for filing the complete application filing fees, and having failed to do so, this Office is required to charge a surcharge for late filing of the fees. Applicant may not shift the burden of the responsibility for abandonment of the application to this Office for failing to notify Applicant that a late filing fee surcharge was due, especially when the prior attorney submitted the late filing fee surcharge with the deficient filing fee. It is Applicant's responsibility to file a complete and proper application in the first instance.

The petition is dismissed.

Alternate Venue

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00 for a small entity[1].

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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[1] Applicant is further advised that a grantable petition under 37 CFR 1.137(b) requires, in addition to the petition and petition fee, the required reply, to wit, an acceptable appeal brief; a continuing application; a Request for Continued Examination ("RCE"), or a reply that places the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

John R. Flanagan
P. O. Box 2629
Eugene OR 97402

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
James Gregory Newell	:	
Application No.: 10/609276	:	DECISION ON
Filing or 371(c) Date: 06/27/2003	:	PETITION
Title of Invention:	:	
RECONFIGURABLE POWER HANDLING DEVICE	:	

This is a decision in response to the Renewed Petition Under 37 CFR 1.137(b), filed May 21, 2007.

This Petition is **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the corrected Notice of Incomplete Reply (Nonprovisional), mailed February 23, 2004. The Notice required $10 to complete the basic filing fee, and $50.00 for processing a returned check. A Notice of Incomplete Reply, mailed January 16, 2004, was withdrawn on February 23, 2004. Applicant was so notified in a Withdrawal of Previously Sent Notice, mailed February 23, 2004. Also mailed on February 23, 2004 was the above-noted corrected Notice of Incomplete Reply (Nonprovisional). The Withdrawal of Previously Sent Notice informed Applicant that the time period for reply runs from the mail date of the corrected Notice. No reply having been received, the Application became abandoned April 24, 2004.

Applicant files the present petition to revive. The $10 to complete the basic filing fee, and $50.00 for processing a returned check were filed May 22, 2006. Accordingly, the petition is granted.

This application is being referred to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
Youngjun Jeff Hu	:	DECISION ON PETITION TO
Application No. 10/609,282	:	WITHDRAW HOLDING OF
Filed: 26 June, 2003	:	ABANDONMENT
Attorney Docket No. MI22-2266	:	

This is a decision on the petition to withdraw the holding of abandonment in the above-identified application, filed on 24 January, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 30 June, 2005. Notice of Abandonment was mailed on 19 January, 2006.

Petitioner asserts that a response to the Office action was timely filed on 3 August, 2005. In support, petitioner has supplied a copy of the reply, which included an amendment in response to the non-final Office action. The amendment was accompanied by a Certificate of Facsimile Transmission Under 37 CFR 1.8 dated 3 August, 2005, signed by Jennifer Gaines, counsel's Legal Assistant. The Certificate itemizing the filing of the response to the Office action of 30 June, 2005.

Petitioner has also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing eight (8) pages, including the first page of the reply, were received at the USPTO on 3 August, 2005. A copy of the sending unit's transmission report was also included.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting on personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioner has provided convincing evidence that a reply to the Notice to File Missing Parts was transmitted to the USPTO on 3 August, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The application is being referred to Technology Center Art Unit 2812 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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MAXYGEN, INC.
INTELLECTUAL PROPERTY DEPARTMENT
515 GALVESTON DRIVE
RED WOOD CITY CA 94063

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AUG 08 2006

OFFICE OF PETITIONS

Applicant: Rasmussen et al.
Appl. No.: 10/609,296
Filing Date: June 27, 2003
Title: INTERFERON BETA-LIKE MOLECULES
Attorney Docket No.: 0228us420
Pub. No.: US 2004/0013644 A1
Pub. Date: January 22, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on March 3, 2006, for the above-identified application. The instant request is being treated as a request for republication, even thought applicant's representative appears to be making arguments that there are material Office errors in the publication.

The request is DISMISSED.

Applicant requests that the application be republished.

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). The publication fee and processing fee were paid. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place and the processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the old EFS system. EFS-Web submissions for publication under 37 CFR 1.221 are excluded from EFS-Web according to the Legal framework for EFS-WEB.

http://www.uspto.gov/ebc/portal/efs/legal.htm

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NEW YORK 10017

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JAN 0 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Paola LA COLLA et al	:	
Application No. 10/609,298	:	DECISION ON PETITION
Filed: June 27, 2003	:	
Attorney Docket No. 11874-016-999	:	

This is a decision on the petition filed on April 20, 2009, requesting under 37 CFR 1.182, that the acceptance of the terminal disclaimers filed January 8, 2009 be withdrawn and the Terminal Disclaimers filed April 20, 2009 be substituted. This is also a decision on the petition filed June 23, 2009, requesting a correction of inventorship under 37 CFR 1.48(a).

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.48(a) is **GRANTED**.

The inventorship of this application has been changed by the deletion of **RICHARD STORER**.

The 37 CFR 1.182 required petitions fee of $400.00 has been charged to petitioner's deposit account number 50-3013.

The application has been forwarded to Art Unit 1623 for approval of the amendment to the specification filed April 20, 2009.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/609,298	06/27/2003	1623	3964	11874-016-999	42	10

CONFIRMATION NO. 9201

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CORRECTED FILING RECEIPT

Date Mailed: 01/04/2010

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)

Paola LaColla, Capoterra, ITALY;
Jean-Pierre Sommadossi, Cambridge, MA;
Gilles Gosselin, Monpellier, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 20583

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/392,351 06/28/2002
and claims benefit of 60/466,194 04/28/2003
and claims benefit of 60/470,949 05/14/2003

Foreign Applications

If Required, Foreign Filing License Granted: 10/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/609,298**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

2' AND 3'-NUCLEOSIDE PRODRUGS FOR TREATING FLAVIVIRIDAE INFECTIONS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Raj S. Dave
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
Mclean, VA 22102

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OCT 22 2007

OFFICE OF PETITIONS

In re Application of
Narayanan Sundararajan
Application No. 10/609,322
Filed: June 26, 2003
Attorney Docket No. 21058/0206462-US0

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 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 June 16, 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.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Darby & Darby, P.C.**
P.O. Box 770
Church Street Station
New York, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 0 5 2006

OFFICE OF PETITIONS

Blair Nicole MacKenzie
2314 Grinstead Drive, # 2
Louisville KY 40204

In re Application of :
MacKenzie, et al. :
Application No. 10/609,350 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.181 filed on December 7, 2004, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 2, 2004, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 3, 2004. A Notice of Abandonment was mailed on November 15, 2004.

Petitioner argues that a reply to the non-final Office action was mailed on June 14, 2004. Petitioner has provided a copy of the United States Postal Service, Certificate of Mailing showing a date-stamp of June 14, 2004.

The certificate of mailing that is utilized by the Postal Service does not satisfy the purposes of the certificate of mailing procedures under 37 CFR 1.8. As a point of reference, the full text of Section 1.8(a) of Title 37 of the Code of Federal Regulations states:

§ **Certificate of mailing or transmission**

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence Required to be filed in the Patent and Trademark Office within a set period of time will Be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with 1.6(d); and

(ii) The correspondence includes a certificate of mailing for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

A copy of an example of a certificate of mailing that would be recognized by the Patent and Trademark Office is attached. Petitioner must understand that the attached certificate of mailing is differs from the U.S. Postal Service certificate of mailing because the certificate of mailing under 37 CFR 1.8 is attached to the correspondence mailed or, in some cases, the wording is actually put on the communication mailed to the Patent and Trademark Office. If the communication were lost in the mail, petitioner would then be able to provide a copy of the communication along with the certificate of mailing that was attached to it and substantiate petitioner's claim that a response was timely filed to the Office action. It is impossible to tell what was in the envelope that had the certificate of mailing on it from the United States Postal Service. It could have been any number of communications filed by petitioner, therefore; the certificate of mailing from the United States Postal Service alone is not sufficient to establish that a response to the last Office action was timely mailed.

There are several ways to ensure that the Office receives correspondence and to establish that correspondence was received if the Office claims it was not. Petitioner may use the certificate of mailing procedures, the Express Mail procedures under 37 CFR 1.10, or an itemized postcard listing the contents of the envelope that will be date-stamped by the Office and returned to petitioner if the communication is received. Petitioner is charged with the having knowledge of all the rules and statutes governing the patent prosecution process. While it is regrettable that petitioner was not aware of the possibility of using a postcard to establish receipt of an Office communication, the lack of knowledge does not alleviate the burden of petitioner to file a timely response and file it in such a way that if it is lost petitioner is able to establish that it was timely mailed in accordance with the Code of Federal Regulations.

Based on the aforementioned, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is dismissed. Petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Certificate of Mailing Under 37 CFR 1.8"
"Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____	_____
Signature	Date
_____	_____
Typed or printed name	Registration Number, if applicable
_____	_____
Address	Telephone Number
_____	
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____	_____
Date	Signature
	_____
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/92 (09-04)
Approved for use through 07/31/2006. OMB 0561-0031
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____ .
Date

_____
Signature

_____
Typed or printed name of person signing Certificate

_____ _____
Registration Number, if applicable Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Paper No.

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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In re Application of	:	
Joshi et al.	:	
Application No. 10/609,363	:	LETTER REGARDING
Filed: June 27, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. VRT0010C1US	:	

This is in response to the "COMMENT ON PTA CALCULATION," filed July 24, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance of five hundred twenty-nine (529) days is incorrect.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred sixty-three **(463)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 529 days. Applicants note that a Request for Continued Examination (RCE) was filed on May 21, 2007 (received in the Office on May 25, 2007).

A review of the record confirms that in response to the final Office action mailed December 20, 2006, applicants did not file an RCE until May 25, 2007, three months and 66 days later. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The filing of the RCE on May 25, 2007 constituted a failure to engage within the meaning of 37 CFR 1.704(b). For which, a period of reduction of 66 days, counting the number of days in the period beginning on March 21, 2007, the day after the date that is three months after the date of mailing of the final Office action, and ending on May 25, 2007, the date of filing of the RCE, should have been entered. It is noted that as stated in 37 CFR 1.703(f), "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Thus, the date of receipt and not of mailing of the RCE is properly used for purposes of calculating the patent term adjustment.

Given entry of the additional 66 day period of reduction, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred sixty-three (463) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants

for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

Date: 12/10/2008

PALM INTRANET

Time: 17:45:13

PTA Calculations for Application: 10/609363			
Application Filing Date:	06/27/2003	PTO Delay (PTO):	654
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	125
Post-Issue Petitions:	0	Total PTA (days):	463
PTO Delay Adjustment:	-66		

File Contents History

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49	04/24/2008	MAIL NOTICE OF ALLOWANCE			
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47	04/24/2008	DOCUMENT VERIFICATION			
46	04/24/2008	EXAMINER'S AMENDMENT COMMUNICATION			
45	04/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	03/28/2008	NOTICE OF ALLOWABILITY			
40	01/18/2008	DATE FORWARDED TO EXAMINER			
39	12/28/2007	RESPONSE AFTER NON-FINAL ACTION		91	37
38	12/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	06/28/2007	MAIL NON-FINAL REJECTION			
36	06/22/2007	NON-FINAL REJECTION			
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34	05/25/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	06/05/2007	DATE FORWARDED TO EXAMINER			
32	05/25/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
31	06/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	05/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	05/25/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
28	12/20/2006	MAIL FINAL REJECTION (PTOL - 326)			
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26	10/23/2006	DATE FORWARDED TO EXAMINER			
25	10/16/2006	RESPONSE AFTER NON-FINAL ACTION		28	22
24	10/04/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
23	10/04/2006	DATE FORWARDED TO EXAMINER			
22.1	09/18/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
22	09/18/2006	RESPONSE AFTER NON-FINAL ACTION		6	21
21	06/12/2006	MAIL NON-FINAL REJECTION	654		-1
20	06/06/2006	NON-FINAL REJECTION			
19	11/18/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	05/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/09/2006	CORRESPONDENCE ADDRESS CHANGE			
16	07/15/2005	MISCELLANEOUS INCOMING LETTER			
15	01/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	01/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	11/18/2004	REFERENCE CAPTURE ON IDS			
12.7	11/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/27/2003	PRELIMINARY AMENDMENT			
10	04/08/2004	CORRESPONDENCE ADDRESS CHANGE			
9	04/07/2004	CORRESPONDENCE ADDRESS CHANGE			
8	09/24/2003	APPLICATION RETURN FROM OIPE			
7	09/24/2003	APPLICATION RETURN TO OIPE			
6	09/24/2003	APPLICATION DISPATCHED FROM OIPE			
5	09/24/2003	APPLICATION IS NOW COMPLETE			
4	09/03/2003	CASE CLASSIFIED BY OIPE			
3	09/03/2003	CLEARED BY OIPE CSR			
2	08/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-9-08 Paper No.: _____

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/609382 Patent No.: 6869230

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should inventor's name be added?

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

The changements criteria - see MPEP 1481, 1412.04

JTR

/UYEN-CHAU LE/
SPE

2874
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Office of Jim Zegeer
Suite 108
801 North Pitt Street
Alexandria, VA 22314

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Feldmann	:	
Application No. 10/609,383	:	DECISION ON PETITION
Filed: July 1, 2003	:	TO WITHDRAW
Attorney Docket No. 3279-Z	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Law Office of Jim Zegeer has been revoked by the applicant of the patent application on January 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Richard J. Feldman**
17800 Mill Creek Drive
Derwood, MD 20855-1019

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314-1176

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Feldman	:	
Application No. 10/609,383	:	DECISION ON PETITION
Filed: July 1, 2003	:	TO WITHDRAW
Attorney Docket No. 3279-Z	:	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 4, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Eric S. Spector on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Richard J. Feldman at the address indicated below.

A Notice of Appeal was filed August 20, 2008, awaiting an Appeal Brief.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Richard J. Feldman**
17800 Mill Greek Drive
Derwood, MD 20855-1019

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/609,383	07/01/2003	Richard J. Feldmann	3279-Z

CONFIRMATION NO. 4498

POWER OF ATTORNEY NOTICE

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

OC000000032311081

Date Mailed: 09/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/04/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JUN 2 9 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Frank LIN, et al.
Application No. 10/609,386
Filed: July 1, 2003
For: METHOD AND RELATED APPARATUS FOR REORDERING ACCESS REQUESTS USED TO ACCESS MAIN MEMORY OF A DATA PROCESSING SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Yoshinori Shimizu et al	:	
Application No. 10/609,402	:	DECISION GRANTING PETITION
Filed: July 1, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0020-5147P	:	

This is a decision on the petition, filed July 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in 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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OFFICE OF PETITIONS

In re Application of	:	
Yoshinori Shimizu et al	:	
Application No. 10/609,402	:	DECISION GRANTING PETITION
Filed: July 1, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0020-5147P	:	

This is a decision on the petition, filed May 4, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of an Information Disclosure Statement.

Frances Hicks
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.*

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OFFICE OF PETITIONS

In re Patent No. 7,362,048 :
Application No. 10/609,402 :
Filed: July 1, 2003 : ON PETITION
Issued: April 22, 2008 :
Attorney Docket No. 0020-5147P :

This is a decision on the petition filed May 27, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted $400.00 towards payment of the $130.00 surcharge, leaving an excess of $270.00. However, 37 CFR 3.81(b) also requires payment of the $100.00 Certificate of Correction fee, which will be collected from the excess monies. Accordingly, the remaining $170.00 will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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WOODCOCK WASHBURN LLP
CIRA CENTRE 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of :
Oesterreicher, et al. :
Application No. 10/609,433 : ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. IVBU-0126 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 22, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to timely file a reply to the Notice of Allowance, mailed January 31, 2008. This Notice set a statutory period of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on May 1, 2008. The Office mailed a Notice of Abandonment on May 27, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a proper master docket report, showing all of his replies docketed for the due date of April 30, 2008. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received. In addition, petitioner has stated that the Notice was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 2186 for re-mailing of the Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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OFFICE OF PETITIONS

In re Application of
Arvo Varis
Application No. 10/609,437
Filed: July 1, 2003
Attorney Docket No. 3501-1066

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby ACCEPTED.

This 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.

Inquiries related to this communication should be directed to JoAnne Burke at (571) 272-4594.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Wong, Cabello, Lutsch, Rutherfor & Brucculer, LLP
20333 SH 249
Suite 600
Houston, TX 77070

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FEB 29 2008

In re Application of :
Rafael Carbunaru et al. :
Application No. 10/609,449 : DECISION ON PETITION
Filed: June 27, 2003 : TO WITHDRAW
Attorney Docket No. 585-0031US4/05-00435-04 : 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 8, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "Ownership Transfer" does not meet any of the conditions set forth in 37 CFR 10.40.

The power of attorney filed on May 10, 2007 was improperly accepted on May 23, 2007. Compliance with 37 CFR 3.73(b) has not been satisfied. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with 37 CFR 3.73(b) may be found on the USPTO.gov website (Form PTO/SB/96).

A courtesy copy of this decision will also be mailed to the first named signing inventor, as assignee has not properly intervened in this application. If assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant or assignee.

There are no pending Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rafael Carbunaru
4701 Natick Avenue, Apt. 209
Sherman Oaks, CA 91403

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MICHAEL ESPARZA
6442 MATTERHORN DRIVE
SACRAMENTO, CA 95842

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Micahel E. Esparza : DECISION ON PETITION
Application No. 10/609,465 : UNDER 37 CFR 1.137(b)
Filed: June 26, 2003 :
For: GARAGE SCREEN DOOR SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely submit corrected drawings on or before June 30, 2005 as required by the Notice of Allowability mailed March 31, 2005. A Notice of Abandonment was mailed on December 14, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of drawings, which have been approved by the Official Draftsperson (see attachment); the petition fee of $750; and the required statement of unintentional delay have been submitted. Accordingly, the drawings are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review

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OFFICE OF PETITIONS

In re Application of :
Amneris C. Waters, et. al. :
Application No. 10/609,488 : ON PETITION
Filed: July 1, 2003 :
Attorney Docket No. 22868.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 14, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed October 19, 2004. A Notice of Abandonment was mailed on May 31, 2005.

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 $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3731, for review of the amendment filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

12 JUL 2005

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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

In re Application of SHINOTSUKA et al. Application No.: 10/609,493 Filing Date: 24 June 2003 Attorney's Docket No.: 7272-119/10307292 For: IMAGE PROCESSING DEVICE	DECISION ON PETITION 37 CFR 1. 182

This is a decision in response to applicant's "Petition under 37 CFR 1.182 to Accept Substitute Translation of PCT Claims" filed in the United States Patent and Trademark Office (USPTO) on 02 May 2005. The petition requests that the English translation of the PCT claims be accepted.

BACKGROUND

On 09 November 2001, applicant filed international application PCT/JP01/09820, which claimed priority of an earlier Japanese application filed 26 December 2000.

On 24 June 2003, applicant filed a utility transmittal letter filing the international application in United States as a utility patent application under 37 CFR 1.53(b). The transmittal letter was accompanied by, *inter alia*, the utility filing fee of $750. The transmittal letter did not expressly request commencement of the national procedures under 35 U.S.C. 371(f).

On 02 May 2005, applicant filed the present petition, requesting that the USPTO "accept a substitute English translation of the original Japanese PCT claims for the set of English language claims filed with this U.S. National Phase application on June 24, 2003."

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). *See* the official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)". 37 CFR 1.495(g) states, in pertinent part:

> The documents and fees submitted...must be clearly identified as a submission to enter the national stage under 37 CFR 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

Furthermore, section 1893.03(a) of the MPEP states the following:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form

PTO-1390) as the transmittal letter.....

> [I]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

A review of the application file reveals that applicant did not use Form PTO-1390 as a transmittal letter. In fact, the transmittal letter filed on 24 June 2003 indicated the filing as "a utility patent application.... under 37 CFR 1.53(b)". Applicant's reference to 37 CFR 1.53(b) in the transmittal letter is inconsistent with and would have contradicted any desire expressed in any papers filed to enter the national stage of the PCT under 35 U.S.C. 371. Application papers submitted under 37 CFR 1.53(b) are considered filed under 35 U.S.C. 111(a).

Since applicant's transmittal letter referenced 37 CFR 1.53(b), the application was properly treated as an application under 35 U.S.C. 111(a). (*See* 37 CFR 1.495(g)). The transmittal letter authorized applicant's deposit account to be charged in the amount of $750, the filing fee for a utility application under 35 U.S.C. 111(a). Accordingly, the filed application was properly treated as a filing under 35 U.S.C. 111(a).

In light of the above discussion, and applicant's intention to file the substitute English translation of PCT claims to fulfill the national stage entry requirements pursuant to 35 U.S.C. 371(c)(2) and 37 CFR 1.495(c), the English translation of the PCT claims filed on 02 May 2005 will not be entered. The new set of claims 1-12 filed on 24 June 2003 will be examined in due course.

CONCLUSION

Applicant's submission on 24 June 2003 was properly treated as an application filed under 35 U.S.C. 111(a), with a filing date of 24 June 2003. Applicant's petition under 37 CFR 1.182 to accept substitute translation of PCT claims as a filing under 35 U.S.C. 371 is **DISMISSED without prejudice**.

This application is being returned to Art Unit 2625 for examination of claims 1-12 filed on 24 June 2003 in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

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OFFICE OF PETITIONS

In re Application of	:	
Sukeyuki Shinotsuka et al	:	
Application No. 10/609,493	:	DECISION ON PETITIONS
Filed: June 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7272-119/10307292	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed March 2, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet. This is also a decision on the petition to expedite under 37 CFR 1.182 filed March 22, 2007.

As to the benefit claim 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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) 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 applications, accompanies this decision on petition.

The petition to expedite under 37 CFR 1.182 is **GRANTED**.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred Technology Center Art Unit 2876 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/609,493	06/24/2003	2624	880	7272-119 / 10307292	12	2

CONFIRMATION NO. 1702
CORRECTED FILING RECEIPT
OC000000023063481
OC000000023063481

167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 03/23/2007

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)

Sukeyuki Shinotsuka, Sayama-shi, JAPAN;
Hideo Seki, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP01/09820 11/09/2001

Foreign Applications

JAPAN 2000-404832 12/26/2000

If Required, Foreign Filing License Granted: 09/24/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/609,493

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMAGE PROCESSING DEVICE

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 5, 2009

TO SPE OF : ART UNIT 2632

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/609517 Patent No.: 6894604

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/B.L./ 2/16/10

_____

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AUG 18 2004

Paper No. 080504

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
KUAN-HUA CHEN	:	
Serial No.: 10/609,532	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 01, 2003	:	FROM RECORD
Attorney Docket No.: **ACMP0116USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 092104

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 28 2004

In re Application of: CHOU	:	
Serial No.: 10/609,535	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 1, 2003	:	FROM RECORD
Attorney Docket No.: **REAP0010USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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JUL 27 2005

OFFICE OF PETITIONS

Applicant: Lin
Appl. No.: 10/609,558
Filing Date: July 1, 2003
U.S. Patent No.: 6,905,102
Issue Date: June 14, 2005
Title: KEYBOARD SUPPORT BRACKET STRUCTURE
Attorney Docket No.: 2450-0511P
Pub. No.: US 2005/00001121 A1
Pub. Date: January 6, 2005

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on July 6, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains a material error as the Office published an application that was submitted with an IDS.

The request is DISMISSED as moot.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." 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]

Since the application has already issued as U.S. Patent No. 6,905,102 on June 14, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Minoru Harada	: DECISION ON REQUEST FOR
Patent Number	: 7569758	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/609,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1018** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Wisniewski et al. :
Application No. 10/609,633 : ON PETITION
Filed: July 1, 2003 :
Attorney Docket No. Q75615 :

This is a decision on the petition filed June 22, 2005, requesting that the above-identified application be accorded a filing date of July 1, 2003, with one drawing sheet as part of the original disclosure.

On July 1, 2003, applicants deposited the above-identified application. However, on September 3, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings.

On October 16, 2003, applicants filed a "Response to Notice of Incomplete Nonprovisional Application," accompanied by one sheet of drawings (Figures 1-3) and a date-stamped postcard receipt, acknowledging receipt of one sheet of drawings in the USPTO on July 1, 2003. Thereafter, the Office mailed an Official Filing Receipt, indicating a filing date for the above-identified application of October 16, 2003, the date of applicants' response to the Notice.

On June 22, 2005, applicants submitted the present petition, copies of the one drawing sheet, their date-stamped postcard receipt and the Official Filing Receipt, as well as an authorization to charge the Deposit Account for the petition fee. Applicants requested that the Office correct the filing date for the above-identified application from October 16, 2003 to July 1, 2003.

The record supports applicants' assertion that the Office erroneously changed the application filing date to October 16, 2003, the date of applicants' response to the Notice. The Office sincerely apologizes for the error. Accordingly, the petition is granted. The above-identified application will be accorded a filing date of July 1, 2003, with one drawing sheet as part of the original disclosure.

The $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 19-4880, as authorized.

The Office of Initial Patent Examination is directed to correct the filing date to July 1, 2003, using the application papers submitted on that date, and the duplicate copy of the one drawing sheet submitted on October 16, 2003. Additionally, the Office is directed to mail applicants a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MILLEN WHITE ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD., SUITE 1400
ARLINGTON, VA 22201

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Gaelle Bellet :
Application No. 10/609,666 : DECISION ON PETITION
Filed: July 1, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. ATOCOM-284 :

This is a decision on the petition filed August 12, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/394,863, filed July 11, 2002, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

While the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(1) and the date the claim was filed was unintentional." Petitioner must notify the

Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. 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 AU 1772 for appropriate action on the amendment submitted August 12, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT Corrected Filing Receipt

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BRANIGAN, P.C.
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SUITE 1400
ARLINGTON, VA 22201

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Gaelle Bellet :
Application No. 10/609,666 : ON PETITION
Filed: July 1, 2003 :
Attorney Docket No. ATOCM-284 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 4, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 10, 2006, after it was believed that no response was received to the final Office action mailed February 9, 2006. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 25, 2006.

The instant petition maintains that a Notice of Appeal was filed on July 10, 2006, along with a request for an extension of time within the second month and a check for the appeal fee. An Office date-stamped postcard whereby the Office acknowledged receipt of the aforementioned items on July 10, 2006 accompanied the petition. The abandonment is being withdrawn on the basis of the Office date-stamped postcard.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Petitioner is advised that the Notice of Appeal filed July 10, 2006, cited an incorrect application number and the notice along with the fees paid were attributed to application 10/609,665. The Notice of Appeal along with the fees will be transferred to application serial number 10/609,666. Applicant is cautioned to use grater care in citing the application serial number in future filings to avoid delay in the patent application's prosecution.

The application file is being forwarded to Technology Center 1700, GAU 1772 for further processing, including processing of the Notice of Appeal field July 10, 2006, and treatment of the Request for Continued Examination filed November 13, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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August 19, 2008

Gary R. Tanigawa
GRT:ap
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

Patent No.: 7,232,888 B2
Application No.: 10/609,671
Inventor(s): Richard J. H. Begent
Issued: June 19, 2007
Title: **ANTIBODIES AGAINST TUMOR SURFACE ANTIGENS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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August 16, 2008

Gary R. Tanigawa
NIXON & VANDERHYE
901 North Glebe Road, 11th Floor
Arlington, VA 22201

Patent No.: 7,232,888 B2
Application No.: 10/609,671
Inventor(s): Richard J. Begent, et al.
Issued: June 19, 2007
Title: **ANTIBODIES AGAINST TUMOR SURFACE ANTIGENS**

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.

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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.

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By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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OFFICE OF PETITIONS

In re Application of :
ROSS et al :
Application No.: 10/609,679 : DECISION ON PETITION
Filing Date: July 1, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 13313_02-0605 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 11, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 12, 2006.

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 payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 000449, 001701
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Yoshihiro Ohba	: DECISION ON REQUEST FOR
Patent Number	: 7587598	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/609,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **905** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 000449, 001701
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 05/18/2010

Applicant : Yoshihiro Ohba
Patent Number : 7587598
Issue Date : 09/08/2009
Application No: 10/609,685
Filed : 07/01/2003

: 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 **932** 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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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Lauffenburger et al.
Application No. 10/609,687
Filed: July 1, 2003
Attorney Docket No. Q-76365

: DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.181 filed by facsimile on September 7, 2004, requesting, in effect, that the application be processed with the six sheets of drawings containing Figures 1-6 that were submitted on filing on July 1, 2003.

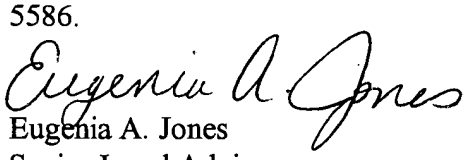
Petitioners allege that the above-identified application was filed with six (6) sheets of drawings containing Figures 1-6 and that the six sheets of drawings incorrectly appear as the drawings for Patent Application Publication No. US 2004/0073392 A1 (which is the publication of another patent application). The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of, inter alia, 6 sheets of drawings (Figs. 1-6) on July 1, 2003, and a copy of the 6 sheets of drawings allegedly filed on July 1, 2003 in the present application.

A review of the Office's records reveals that the drawings for another application that was also filed on July 1, 2003, but by a different law firm, were erroneously placed in the above-identified application and vice versa.

The petition is **granted**. No petition fee is required.

The correct drawings for the above-identified application (i.e., the 6 sheets of drawings containing Figures 1-6 filed July 1, 2003, which are identical to the copy of the drawings submitted with the petition) have been placed in the application and the incorrect drawings have been removed therefrom.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.



Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/609,734	:	ON PETITION
Filed: June 30, 2003	:	
Attorney Docket No. 20.2885	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed September 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 23, 2004. A Notice of Abandonment was mailed June 10, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Dabi et al.	:	
Application No. 10/609,736	:	ON PETITION
Filed: June 30, 2003	:	
Attorney Docket No. PPC-5011-US-NP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 24, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 25, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The large entity fee for a petition under 37 C.F.R. § 1.137(b) is $1330.00, rather than the $110.00 submitted by the petitioner. Accordingly, an additional $1220.00 will be charged to petitioner's deposit account as authorized.

This matter is now being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 10/609,737	:	DECISION ON PETITION
Filed: June 30, 2003	:	
Attorney Docket No. 113664 C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2009, as required by the Notice of Allowance and Fee(s) Due mailed January 28, 2009. Accordingly, the date of abandonment of this application is April 29, 2009. A Notice of Abandonment was mailed June 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 payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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PRINCETON NJ 08540

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DEC 29 2009

OFFICE OF PETITIONS

In re Application of :
Klint, et al. :
Application No. 10/609,744 : ON APPLICATION FOR
Filed: June 30, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 6472.200-US :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed September 8, 2009. While the application for patent term adjustment is captioned under 37 C.F.R. §1.705(d), it is properly treated under 37 C.F.R. §1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is seven hundred eighty-seven (787) days, not four hundred forty-one (441) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants disclose that the Office failed to enter a reduction in connection with a reply filed on March 27, 2009.

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).

To the extent that applicants request 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). This is true even in this

instance 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the June 5, 2009 Notice of Allowance is three hundred fifty-six (356) days. A copy of the updated PALM screen, showing the determination, is enclosed.

On June 5, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 441 days. Applicants disclose that the Office failed to enter a reduction in connection with a reply filed on March 27, 2009.

Applicants calculate a period of reduction of two (2) days in connection with the filing of a March 27, 2009 Information Disclosure Statement (IDS). While a reduction is found to be warranted, the reduction should be calculated pursuant to 37 CFR § 1.704(c)(10). In addition, a review of the PTA Calculations for the application reveals an additional instance of delay that should be calculated pursuant to 37 CFR § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

The first Notice of Allowance mailed in this application was mailed on February 24, 2009. It is undisputed that applicants filed a Request for Continued Examination (RCE) and IDS that did not include a proper § 1.704(d) statement on March 5, 2009. The period of reduction is properly calculated as twelve (12) days, counting the number of days in the period beginning on the date

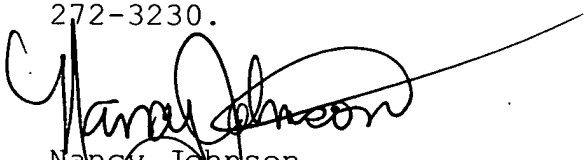
the RCE and IDS were filed, March 5, 2009, and ending on March 16, 2009, the date the Office mailed the second Notice of Allowance. Accordingly, a period of reduction of twelve (12) days will be entered.

As stated above, the Office mailed a second Notice of Allowance on March 16, 2009. It is undisputed that Applicants filed a RCE and an IDS that did not include a proper § 1.704(d) statement on March 25, 2009. It is undisputed that Applicants filed another IDS that did not include a proper § 1.704(d) statement on March 27, 2009. The period of reduction is properly calculated as seventy-three (73) days, counting the number of days in the period beginning on the date the RCE and the IDS were filed, March 25, 2009, and ending on June 5, 2009, the date the Office mailed the third Notice of Allowance. The reduction for the IDS filed on March 27, 2009 (71 days) overlaps with the 73 day reduction assessed in connection with the RCE and IDS filed on March 25, 2009. Accordingly, a total period of 73 days for applicant delay is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred fifty-six (356) days.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the 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 if applicable, for the Office taking in excess of three years to issue the 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

Enclosure: Copy of adjusted PALM calculation

Day : Thursday
Date: 12/17/2009

PALM INTRANET

Time: 19:46:15

PTA Calculations for Application: 10/609744			
Application Filing Date:	06/30/2003	PTO Delay (PTO):	577
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	136
Post-Issue Petitions:	0	Total PTA (days):	356
PTO Delay Adjustment:	-85		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
125	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		12	
124	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
114	06/05/2009	MAIL NOTICE OF ALLOWANCE			
113	06/04/2009	ISSUE REVISION COMPLETED			
112	06/04/2009	DOCUMENT VERIFICATION			
111	06/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
110	06/04/2009	NOTICE OF ALLOWABILITY			
109	03/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
108	03/25/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
107	03/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
106	03/25/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
105	04/09/2009	FINISHED INITIAL DATA CAPTURE			
104	03/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
103	03/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
102	03/25/2009	REFERENCE CAPTURE ON IDS			
101	03/25/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
100	03/31/2009	DATE FORWARDED TO EXAMINER			
99	03/25/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
98	03/31/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

97	03/25/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
96	03/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	03/25/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	03/25/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
93	03/20/2009	EXPORT TO INITIAL DATA CAPTURE			
92	03/16/2009	MAIL NOTICE OF ALLOWANCE			
91	03/13/2009	ISSUE REVISION COMPLETED			
90	03/13/2009	DOCUMENT VERIFICATION			
89	03/15/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
88	03/12/2009	NOTICE OF ALLOWABILITY			
87	03/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	03/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
85	03/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
84	03/10/2009	DATE FORWARDED TO EXAMINER			
83	03/05/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
82	03/10/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
81	03/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	03/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	03/05/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
78	02/27/2009	EXPORT TO INITIAL DATA CAPTURE			
77	02/24/2009	MAIL NOTICE OF ALLOWANCE			
76	02/19/2009	ISSUE REVISION COMPLETED			
75	02/19/2009	DOCUMENT VERIFICATION			
73	02/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	02/13/2009	NOTICE OF ALLOWABILITY			
71	01/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	01/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

69	01/26/2009	REFERENCE CAPTURE ON IDS			
68	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	02/06/2009	DATE FORWARDED TO EXAMINER			
66	01/26/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
65	02/06/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
64	02/06/2009	DATE FORWARDED TO EXAMINER			
63	01/26/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
62	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	01/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	01/26/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
59	12/08/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	12/04/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	10/27/2008	MAIL FINAL REJECTION (PTOL - 326)			
56	10/24/2008	FINAL REJECTION			
55	08/12/2008	DATE FORWARDED TO EXAMINER			
54	07/16/2008	RESPONSE AFTER NON-FINAL ACTION			
53	09/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	04/21/2008	MAIL NON-FINAL REJECTION	72		48
51	04/18/2008	NON-FINAL REJECTION			
50	09/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	02/14/2008	DATE FORWARDED TO EXAMINER			
48	10/09/2007	RESPONSE AFTER NON-FINAL ACTION			
47	09/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	07/16/2007	MAIL NON-FINAL REJECTION			
45	07/09/2007	NON-FINAL REJECTION			
44	06/18/2007	DATE FORWARDED TO EXAMINER			
43	06/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	06/18/2007	DATE FORWARDED TO EXAMINER			

41	06/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		6	37
40	06/18/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	06/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	06/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	03/08/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	03/05/2007	FINAL REJECTION			
35	12/28/2006	DATE FORWARDED TO EXAMINER			
34	12/14/2006	RESPONSE AFTER NON-FINAL ACTION		28	31
33	12/04/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	11/30/2006	DATE FORWARDED TO EXAMINER			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Ting-Pwu Yen et al	:	
Application No. 10/609,756	:	ON PETITION
Filed: June 30, 2003	:	
Attorney Docket No. 5646-96	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

The Notice of Allowance in the above-identified application was mailed September 21, 2004, which set a statutory period for reply of three (3) months. The issue fee was received December 22, 2004 with December 20, 2004 certificate of mailing. Therefore, the petition under 37 CFR 1.137(b) is hereby dismissed as moot.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Ting-Pwu Yen et al :
Application No. 10/609,756 : DECISION ON PETITION
Filed: June 30, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5646-96 :

CORRECTED DECISION

This is a decision on the petition, filed September 24, 2004 and supplemented on March 11, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on June 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

At the time of filing the petition to revive on September 24, 2004, the fee therefor was $1330. The supplemental petition filed on March 11, 2005 included a $1500 payment. Therefore, an overpayment of $170 has been received. Accordingly, the $170 overpayment will be credited to petitioner's Deposit Account No. 50-0220.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on September 21, 2004. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is $300 required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This matter is being forwarded to Publishing Division to await to the Notice of Publication Fee Due mailed April 6, 2005.

The decision mailed February 22, 2005 is hereby vacated as of the mail date of this decision.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Ting-Pwu Yen et al
Application No. 10/609,756
Filed: June 30, 2003
Attorney Docket No. 5646-96

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

CORRECTED DECISION

This is a decision on the petition, filed September 24, 2004 and supplemented on March 11, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on June 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(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 of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

At the time of filing the petition to revive on September 24, 2004, the fee therefor was $1330. The supplemental petition filed on March 11, 2005 included a $1500 payment. Therefore, an overpayment of $170 has been received. Accordingly, the $170 overpayment will be credited to petitioner's Deposit Account No. 50-0220.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on September 21, 2004. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is $300 required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This matter is being forwarded to Publishing Division to await to the Notice of Publication Fee Due mailed April 6, 2005.

The decision mailed February 22, 2005 is hereby vacated as of the mail date of this decision.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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LIBERTYVILLE, IL 60048-5343

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AUG 06 2008

OFFICE OF PETITIONS

In re Application of :
Mary J. Schavitz :
Application No. 10/609,758 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. CS20881RL :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the Notification of Non-Compliant Appeal Brief (37CFR 41.37) of June 8, 2007. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

As authorized, $510 for the filing of the appeal brief has been charged to petitioners deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2617 for further processing.

Andrea Smith
Petitions Examiner
Office of Petitions

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Vijay K. Sharma
185 Martinvale Lane
San Jose CA 95119

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OFFICE OF PETITIONS

In re Application of :
Vijay K. Sharma et al :
Application No. 10/609,760 :
Filed: July 1, 2003 :
For: SINGLE USER DEVICE FOR RECEIVING VOICE, TEXT, VIDEO AND GRAPHICAL DATA FROM BOTH WIRELESS AND WIRE-LINED NETWORKS : DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 26, 2006, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 27, 2006. A Notice of Abandonment was mailed on May 8, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

The instant petition lacks item (1). In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant(s).

Therefore, as the petition is not signed by all the applicants and the record herein fails to disclose that petitioner herein (Vijay K. Sharma) was ever given a power of attorney to act on behalf of the other two applicants, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Accordingly, before revival of this application, the reply to the non-final Office action must be signed by all the named inventors in this case, which should be submitted with a renewed petition under 37 CFR 1.137(b) (no additional petition fee is required).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Vijay K. Sharma
18510 Serra Court
Morgan Hill CA 95037

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JUL 23 2008

In re Application of :
Vijay K. Sharma et al. :
Application No. 10/609,760 : ON PETITION
Filed: July 1 2003 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 26, 2006 which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time was obtained under 37 CFR 1.136(a). Accordingly, by operation of law, the above-identified application became abandoned on September 27, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks items (1).

The Petition Decision mailed December 7, 2007 notes that item (1) is missing from the petition filed June 4, 2007. The petition and response were signed by only one of the three co-inventors and thus they were not acceptable.

The renewed petition includes a power of attorney where co-inventors Ron Anglikowski and Mark Sova give power of attorney to co-inventor Vijay Sharma. However, this power of attorney was effective after the initial petition received June 4, 2007 and the power of attorney cannot be made retro-active. Therefore a petition and amendment signed on or after the date of power of attorney is needed.

Further, it is noted that the renewed petition was filed six months after the December 7, 2007 petition decision. Applicants filed a two month extension of time with the renewed petition but the extension of time was not in compliance with 37 CFR 1.136(a) in that the extension of time fee was not paid. Further, applicant would have had to file a four month extension of time for the renewed petition to have been timely filed. Petitioner is warned that any renewed petition filed subsequent to this decision needs to be timely filed within two (2) months or a proper request for extension of time needs to be provided for the renewed petition to be considered.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Vijay K. Sharma
18510 Serra Court
Morgan Hill CA 95037

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OFFICE OF PETITIONS

In re Application of :
Vijay K. Sharma et al. :
Application No. 10/609,760 : ON PETITION
Filed: July 1, 2003 :
Attorney Docket No. :

This is a decision on the renewed 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 May 26, 2006, which set a shortened statutory period for reply of three (3) months. A one month extension of time was obtained under 37 CFR1.136(a). Accordingly, by operation of law, the above-identified application became abandoned on September 27, 2006

The petition decision mailed July 23, 2008 dismissed the petition under 37 CFR 1.137(b) filed May 12, 2008 for failure to provide a proper statement of unintentional delay under 37 CFR 1.137(b)(3).

The instant renewed petition includes a proper statement of unintentional delay.

The renewed 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 of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 2618 for appropriate action on the merits.

Carl Friedman
Petitions Examiner
Office of Petitions

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DEC 7 2004

Paper No. 110104

Duane Morris LLP
100 College Rd. West
Suite 100
Princeton, NJ 08540

In re Application of:
Kurtz *et al.*
Serial No.: 10/609,786
Filed: June 30, 2003
Attorney Docket No.: **Kulite-90**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

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SUITE 1600
CHICAGO, IL 60603-3406

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
James J. Fitzgibbon et al :
Application No. 10/609,788 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 79079

This is a decision on the petition, filed October 13, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
Jonathan D. COMBS et al. :
Application No. 10/609,814 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 42P17031 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 04, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 09, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2181 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Jonathan D. COMBS et al.
Application No. 10/609,814
Filed: June 30, 2003
Attorney Docket No. 42P17031

SUBSTITUTE
DECISION ON PETITION

This is a substitute decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 04, 2007, to revive the above-identified application.

The decision mailed October 17, 2007 has been vacated.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 09, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(1). Petitioner failed to provide the required reply to the final office action of November 09, 2006. The Request for Continued Examination does not provide the proper submission under (37 CFR 1.114).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of :
Jonathan D. COMBS et al. :
Application No. 10/609,814 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 42P17031 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 06, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

A review of the Office records indicates that the petition fee of $1,500 and the Request for Continued Examination (RCE) fee of $790.00 was submitted with the first petition to revive on September 04, 2007. Since the fees were previously submitted, the $2,350.00 fees filed with the renewed petition on February 04, 2008 are unnecessary and will be credited to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2181 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Edwards Angell Palmer & Dodge LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Lorbert, et al. :
Application No. 10/609,825 : DECISION ON PETITION
Filed: June 30, 2003 :
Docket No.: NVI 5087.8 :

This is a decision on the petition under 37 CFR 1.181, filed March 24, 2008, to withdraw the holding of abandonment.

The Notice of Abandonment mailed January 24, 2008 indicates that the instant application is abandoned for failure to timely submit a properly reply to the final Office action mailed October 23, 2006.

Petitioners assert that a proper reply was timely submitted April 2, 2007 (amendment and Notice of Appeal) and August 1, 2007 (terminal disclaimer, or, "TD").

The final Office action (FOA) mailed October 23, 2006 set a three month shortened statutory period of time for reply, making a reply due on or before January 23, 2007. The period of time for reply was extendible by three months, or, April 23, 2007, pursuant to 37 CFR 1.136(a). A reply which consisted of an amendment, a Notice of Appeal, and three month extension of time were filed April 2, 2007. An Advisory Action (AA) was mailed May 31, 2007. The AA indicated that the amendment filed April 2, 2007 "does NOT place the application in condition for allowance because: A terminal disclaimer must be filed to overcome the double patenting rejections discussed in the previous office action. The previous office action pointed out that claims 2-5 are unpatentable over claim 8 of US Patent No. 6,939,693, the patent of US application 10/136,974." A TD was filed August 1, 2007. Notice of Abandonment was mailed January 24, 2008.

The TD submitted August 1, 2007 required an extension of time. In accordance with MPEP 1205.01, "if the appellant files an amendment or a request for continued examination (RCE) under 37 CFR 1.114, instead of an appeal brief, after 2 months from the filing date of the notice of appeal but within 3 months from the mailing of the final action, the petition for an extension of time would be required."

Accordingly, the TD submitted August 1, 2007 required a petition for a two month extension of time to extend the period of time for submission of the TD from June 3, 2007, the day after the date that is two months after the date that the Notice of Appeal was filed, to August 2, 2007, the date that is two months after the date that the appeal brief was due.

As the instant application contains a general authorization to charge any fees due to prevent abandonment of the application, a two month extension of time should have been applied to the reply (TD) submitted August 1, 2007.

In view thereof, a two month extension of time has been charged to applicants' 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.

In view of the analysis set forth herein, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being forwarded to Group Art Unit 1651.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Jonathan M. Sparks
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, Massachusetts 02205

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United States Patent and Trademark Office
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SEP 12 2007

OFFICE OF PETITIONS

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

In re Application of :
Jeffory S. Hansen et al :
Application No. 10/609,843 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. J-3875 :

This is a decision on the petition, filed September 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2006 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE, the amendment and the IDS, filed on September 11, 2007, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas P. Riley appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Riley desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Riley, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The application will be referred to Technology Center Art Unit 3752 for processing of the

---

[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).

request for continued examination under 37 CFR 1.114, the amendment and the IDS filed September 11, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MCCRACKEN & FRANK LLP
200 W. ADAMS, SUITE 2150
CHICAGO, ILLINOIS 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60606

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FEB 26 2009

OFFICE OF PETITIONS

In re Application of	:	
FISHBAIN et al.	:	ON APPLICATION
Application No. 10/609,869	:	FOR
Filed: June 20, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 03-677	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT filed December 17, 2008. Applicants request that the determination of patent term adjustment be corrected from 1282 days to 1653 days, assuming the patent issues on March 24, 2009. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

The request is **DISMISSED**.

Applicants are advised that 37 CFR § 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, 37 CFR § 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 included an authorization to charge the issue fee and any additional fees required under 37 CFR §§§ 1.16, 1.17, and 1.21. Thus, the application for patent term adjustment was timely filed. However, neither the fee under 37 CFR § 1.18(e) nor a general authorization to charge any required fees, accompanied the instant application for patent term adjustment.

Accordingly, the request is dismissed for failure to comply with the requirement of 37 CFR § 1.705(b)(1) to submit the fee under 37 CFR § 1.18(e).

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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 and accompanied by the $200.00 fee set forth in 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision and is directed to proceed with the processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

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JUL 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,512,557	:	
Fishbain et al.	:	
Issue Date: March 31, 2009	:	DECISION ON REQUEST FOR
Application No. 10/609,869	:	RECONSIDERATION OF
Filed: June 30, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 03-677	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed May 29, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from one thousand two hundred eighty-two (1,282) days to one thousand six hundred sixty (1,660) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 1,282 days.

On March 31, 2009, the above-identified application matured into U.S. Patent No. 7,512,557 with a revised patent term adjustment of 1,282 days. The Office determined that the 1,005 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1] overlap with the 1,296 days of Office delay,[2] pursuant

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 1,296 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 14 days of applicant delay, the patent issued with a revised patent term adjustment of 1,282 days.

On May 29, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 1,660 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (1,005 days) and the period of Examination Delay (1,296 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of delay

---

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] A nonfinal Office action was mailed on March 18, 2008, 14 months and 1,296 days after the application was filed on June 30, 2003.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and (B) overlap by 627 days as they occur on the same calendar days in both period. Patentees assert that this overlapping period is the 627 days running from June 30, 2006 to March 18, 2008. Patentees maintain that the total non-overlapping period of Office delay is 1,674 (1,296 + 378) days as these periods do not occur on the same days. Given the 14 days of applicant delay, patentees assert entitlement to 1,660 days of patent term adjustment.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the

---

[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on June 30, 2003, and ending on the date of issuance of the patent on March

31, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1,296 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1,005 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 1,005 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,296 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1,005 days and the 1,296 days is neither permitted nor warranted. 1,296 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 1,005 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,282 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Lyndon L. Larcom, Amy Tuck and :
Samual Smith :
Application No. 10/609,882 : DECISION REFUSING
Filed: June 30, 2003 : STATUS UNDER
Title of Invention: : 37 CFR 1.47
UVC RADIATION THERAPY FOR LEUKEMIA :

This is in response to a petition under 37 CFR 1.47(a), filed February 10, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 30, 2003, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on October 23, 2003, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition under 37 CFR 1.47(a), to allow inventors Lyndon L. Larcom and Amy Tuck to proceed with the application on his own behalf and on behalf of inventor Samual Smith.

In support of the petition the Affidavit of Christina L. Mangelsen is provided, wherein Ms. Mangelsen avers that the nonsigning inventor was provided enclosures consisting of a

Combined Declaration and Power of Attorney and an Assignment for review and execution.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1).

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> 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.

MPEP 409.03(d).

As to item (1), applicant failed to show or provide proof that the inventor refused to sign the declaration. Before an inventor can refuse to sign an oath or declaration, he must have been *presented with a copy of the application papers (specification, claims and drawings)*. *See* MPEP 409.03(d).

Applicant must demonstrate that a copy of the application papers were presented to the inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Lyndon L. Larcom, Amy Tuck and :
Samual Smith :
Application No. 10/609,882 :
Filed: June 30, 2003 :
Title of Invention: :
UVC RADIATION THERAPY FOR LEUKEMIA :

DECISION GRANTING
STATUS UNDER
37 CFR 1.47

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed June 7, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Samual Smith, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/14/09 Paper No.: _____

TO SPE OF : ART UNIT 2617 Meless N. Zewdu

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/609891 Patent No.: 7499711

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

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: The request for Certificate of Correction filed 4/3/09 is approved.

George Eng
SPE

2617
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

GEORGE ENG
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070305

DATE : March 5, 2007

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,942

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

In the interests of clarity it is noted that the examiner of record did not initial the NPL references sought to be cited via a Certificate of Correction. However, given that (a) the examiner did sign the IDS filed 5/24/06 where the references were cited; (b) the NPL references were not crossed out as would have been done if they were not considered; and (c) references other than the NPL references were crossed out, it appears on the balance that the omission of examiner's initials may have been inadvertent.

SPE Vasu Jagannathan
Art Unit 1714

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

JOE ZHENG
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CALIFORNIA 95014

In re Application of: Tharp et al.
Application No. 10/609,908
Filed: June 30, 2003
For: METHOD AND SYSTEM FOR DYNAMICALLY MODELING RESOURCES

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed October 03, 2003, 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 **DISMISSED**.

M.P.E.P. §708.02, Section VIII that sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the **fee set forth in 37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **petitioner 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, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed October 03, 2003 fails to adequately meet requirements (c) and (e) of the criteria set forth above.

With respect to requirement (c), the pre-examination search has not been directed to the invention as claimed in the application for which special status is requested. It is noted that the search terms (listed on page 2 of the statement of pre-examination search, submitted with the petition to make special) include "computer", "host" and other similar terms. Such terms, searched "singularly or in combination" (see page 2 of Applicant's statement) are broad as compared to the language of the claims, which includes such phrases as "resources are virtualized in the model", "provides visualizations of relationships among the resources" and the like. Furthermore, relevant terms (which are recited in the claims) include: "virtualized", "visualizations" and similar terms. These terms have apparently not been used in the search. Therefore, the ***pre-examination search has not been directed to the invention as claimed in the application for which special status is requested.***

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner's submission is deficient in that it merely paraphrases the disclosure (see for example, the discussion of U. S. Patent 5,699,351, which merely paraphrases the summary of the invention) provided in each reference accompanied by a statement that the references do not include the features of the claimed invention. That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter of each of the independent claims is patentable over the references.***

Petitioner should ensure that the above discussion is directed to how the language of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

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 Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/11/05

HMJ/4/11/05

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SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of :
Howard, Michael :
Application No. 10/609,934 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 13768.423 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Joel D. Voelzke, Esq.
Fulwider Patton Lee & Utecht, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

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NOV 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
James Alan Gossett, et al.
Application No. 10/609,936
Filed: June 30, 2003
For: PARTNER DIRECTOR GATEWAY

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on August 25, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) 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; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 11/10/04

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United States Patent and Trademark Office
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MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of
Hagstrom et al.
Application No. 10/609,938
Filed: June 30, 2003
Attorney Docket No. Mirus.013.03.04

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on June 30, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1632 for appropriate action on the amendment submitted January 12, 2007, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Walsh
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/609,938	06/30/2003	1632	375	Mirus.013.03.4	8	8	1

CONFIRMATION NO. 6503

25032
MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON, WI 53719

CORRECTED FILING RECEIPT

OC000000022270133

OC000000022270133

Date Mailed: 02/01/2007

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)

James E. Hagstrom, Middleton, WI;
Jon A. Wolff, Madison, WI;
Sean D. Monahan, Madison, WI;
David B. Rozema, Madison, WI;
Vladimir G. Budker, Middleton, WI;
Paul M. Slattum, Madison, WI;
David L. Lewis, Madison, WI;

Power of Attorney:

Mark Johnson--35909

Domestic Priority data as claimed by applicant

This application is a CIP of 09/447,966 11/23/1999 PAT 6,627,616
which is a CIP of 09/391,260 09/07/1999 ABN
which is a DIV of 08/975,573 11/21/1997 PAT 6,265,387
This application 10/609,938
is a CIP of 10/012,804 11/06/2001
which claims benefit of 60/315,394 08/27/2001
and claims benefit of 60/324,155 09/20/2001

Foreign Applications

If Required, Foreign Filing License Granted: 10/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/609,938

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Intravascular delivery of non-viral nucleic acid

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,587,357 :
Brian Buck :
Issue Date: September 8, 2009 :
Application No. 10/609,965 : DECISION ON REQUEST FOR
Filed: June 30, 2003 : RECONSIDERATION OF
Attorney Dkt. No. 03-676 : PATENT TERM ADJUSTMENT
Title: Repositioning Of Market :
Information On Trading Screens :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed October 7, 2009. This request is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 1094 days to 1,714 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 8, 2009, the above-identified application matured into US Patent No. 7,587,357 with a patent term adjustment of 1094 days. This request for reconsideration of patent term adjustment (including the submitted fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee assert that the patent is entitled to an additional patent term adjustment of 620 days due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b). Thus, patentee requests that the determination of patent term adjustment be increased to a total of one thousand seven hundred fourteen (1,714) days (the sum of the period of three-year delay (1166 days) and the period of examination delay (1200 days) minus overlap (546 days) minus applicant's delay (106 days). Patentee does not dispute the 106-day reduction for applicant's delay.

The Office finds that as of the issuance of the patent on September 8, 2009, the application was pending three years and 1166 days after its filing date. A period of adjustment of 1200 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). At issue is whether patentee should accrue an additional 1166 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 1200 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 1166-day period of delay in issuance of the patent overlaps with the period of 1200 days of examination delay. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, June 30, 2003 until issuance on September 8, 2009. This 1166 days of pendency over three years is the relevant period for considering overlap. 1200 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 1166 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 1200 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 1200 days and then delay another 1166 days. The greater period, 1200 days, is the actual number of days issuance of the patent was delayed by the Office.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 1094 (1200-106) days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Brian J. Buck	: DECISION ON REQUEST FOR
Patent Number	: 7587357	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/609,965	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-24-10

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/609965 Patent No.: 7587357

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Examiner has reviewed the document and there is no change in the scope of the invention with the submitted changes.

/James Kramer/ 3693

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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042005

George L. Rideout, Jr.
4400 Abbott Grove Drive
Crestwood KY 40014

APR 22 2005

In re Application of:
Xing Yuan
Serial No.: 10/609,969
Filed: June 30, 2003
For: SUPERCONDUCTING MATRIX FAULT CURRENT LIMITER WITH CURRENT-DRIVEN TRIGGER MECHANISM

DECISION ON PETION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 30, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item X: Special Status for Patent Applications Relating to Superconductivity.

A petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section X, for an invention which involves superconductivity technologies will be granted on request pursuant to a mandate by the president of the United States of America.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO CA 94303

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Adema et al.	:	
Application No. 10/609,981	:	ON PETITION
Filed: June 30, 2003	:	
Atty Docket No. RPS920030033US1/2802P	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2163 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/23/2010

Applicant	: Donald R. Fralic	: DECISION ON REQUEST FOR
Patent Number	: 7640177	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/609,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1947** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT./ MAIL STOP NRW-097
7801 COMPUTER AVENUE SOUTH
BLOOMINGTON, MN 55435

Mail Date: 04/27/2010

Applicant	: James K. Price	: DECISION ON REQUEST FOR
Patent Number	: 7583477	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/610,008	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.