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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,358	07/25/2003	Peter Migaly	290194-00001	2456

7590 05/22/2009

DR. PETER MIGALY
P.O. BOX 237
BLAIRSVILLE, PA 15717

EXAMINER	
OLSON, ERIC	
ART UNIT	PAPER NUMBER
1623	

MAIL DATE	DELIVERY MODE
05/22/2009	PAPER

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

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

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MAY 2 2 2009

DR. PETER MIGALY
P.O. BOX 237
BLAIRSVILLE PA 15717

In re Application of :	:
Peter Migaly	:
Serial No.: 10/627,358	: PETITION
Filed: July 23, 2003	:
	:

This is in reply to the petition filed March 13, 2009, presumably under 37 CFR § 1.181, "to overrule a subordinate-Objections on procedural matters".

DISCUSSION

It is pointed out the action of September 12, 2008 is not under final rejection. Hence, the petition is premature (see 37 CFR § 1.181(c)).

In view of the above reason, the petition is **DISMISSED**.

However, the examiner will be instructed to consider applicant's arguments set forth in the petition when the next action is prepared.

Applicant may submit a renewed petition, if desired, after the action is made Final.

Any renewed petition must be submitted within TWO MONTHS of the mail date of this decision in order to be considered timely.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,358	07/25/2003	Peter Migaly	290194-00001	2456

7590 08/13/2009

DR. PETER MIGALY
P.O. BOX 237
BLAIRSVILLE, PA 15717

EXAMINER	
OLSON, ERIC	
ART UNIT	**PAPER NUMBER**
1623	
MAIL DATE	**DELIVERY MODE**
08/13/2009	PAPER

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

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

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AUG 1 3 2009

DR. PETER MIGALY
P.O. BOX 237
BLAIRSVILLE PA 15717

In re Application of :	:
Peter Migaly	:
Serial No.: 10/627,358	: PETITION
Filed: July 23, 2003	:
	:

This is in reply to the renewed petition filed July 22, 2009, under 37 CFR § 1.181, "on objections on procedural matters, ... and to overrule a subordinate..."

DISCUSSION

The instant application is under non-final rejection.

Applicant argues, inter alia, that actions by the examiner are unacceptable such as "the use of pseudoscientific techniques by the examiners, and to the fact that the examiners were showing evidence that they did not even read the application and replies in its entirely."

Applicant points have been carefully considered but they are not persuasive. Note the rule regarding Petitions which sets forth the following:

Rule 1.181 Petition to the Director:
(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;..

It is pointed out that the petition does not set forth "any specific action or requirement of any examiner" which is in **error** (emphasis added). Applicant's "objections on procedural matters, ...to overrule a subordinate" does not constitute grounds in which to petition. Therefore, since no error due to a specific action or requirement of the examiner is alleged, applicants' points are not properly petitionable.

In view of the above reason, the petition is **DENIED**.

However, the examiner will again be instructed to consider applicant's points set forth in the instant petition when the next action is prepared.

Any renewed petition must be submitted within TWO MONTHS of the mail date of this decision in order to be considered timely.

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.

Michael Wityshyn
Acting Director, Technology Center 1600

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Woodcock Washburn LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

MAILED

JUL 0 2 2004

Technology Center 2100

In re Application of:
Kenneth WILLIAM, et al.
Application No. 10/627,381
Filed: July 25, 2003
For: SYSTEM AND METHOD FOR PARALLEL CONVERSION, COMPILATION, AND DISTRIBUTION OF CONTENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed April 28, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on May 6, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Pepper Hamilton LLP as the attorney of record of the instant application. The Power of Attorney of May 6, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Pepper Hamilton LLP, et al.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: W. Joseph Melnik
Pepper Hamilton LLP
One Mellon Center
50th Floor
500 Grant Street
Pittsburgh, PA 15219

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MARC ASCOLESE
CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

MAILED

AUG 2 4 2004

Technology Center 2100

In re Application of: Rao et al.
Application No. 10/627,385
Filed: July 25, 2003
For: SYSTEM AND METHOD FOR RESOLVING CLUSTER PARTITIONS IN OUT-OF-BAND STORAGE VIRTUALIZATION ENVIRONMENTS

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on April 12, 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. § 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;

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have 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: 8/18/04

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Redd and Baum	: DECISION REFUSING STATUS
Application No. 10/627,393	: UNDER 37 CFR 1.47(a)
Filed: 25 July, 2003	:
Atty Docket No. SF005C	:
	:

This is in response to the petition filed under 37 CFR 1.47(a) on 14 January, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 July, 2003, without an executed oath or declaration. Accordingly, on 29 October, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 17 November, 2003, petitioners filed a declaration naming Jarrett L. Redd and Daniel R. Baum as joint inventors, signed by joint inventor Redd, and the late-filing surcharge. Accordingly, on 29 December, 2003, Initial Patent Examination Division mailed an additional Notice to Filing Missing Parts requiring the signature of joint inventor Baum on the declaration, and requiring a new oath or declaration containing the residence and mailing address of each inventor.

In response, the present petition was filed on 14 January, 2004.

Petitioners state that joint inventor Baum refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not provided proof that Baum was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] It is unclear from the petition what documents were in fact sent to joint inventor Baum. 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 (specification, including claims, drawings, if any, and the declaration) 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 to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written 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 fact.

In regards to item (2), the declaration present with the present petition is defective in that it contains lacks the residence and mailing address of non-signing inventor Baum. The oath or declaration must identify the mailing address, and the residence

[1] MPEP 409.03(d).

if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[2] Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

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: 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

[2] 37 CFR 1.63(c).

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OFFICE OF PETITIONS

In re Application of	:
Redd and Baum	: DECISION REFUSING STATUS
Application No. 10/627,393	: UNDER 37 CFR 1.47(a)
Filed: 25 July, 2003	:
Atty Docket No. SF005C	:
	:

This is in response to the renewed petition filed by facsimile under 37 CFR 1.47(a) on 10 March, 2004.

The petition is again **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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 July, 2003, without an executed oath or declaration.

Accordingly, on 29 October, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. In response, on 17 November, 2003, petitioners filed a declaration naming Jarrett L. Redd and Daniel R. Baum as joint inventors, signed by joint inventor Redd, and the late-filing surcharge.

Accordingly, on 29 December, 2003, Initial Patent Examination Division mailed an additional Notice to Filing Missing Parts requiring the signature of joint inventor Baum on the declaration, and requiring a new oath or declaration containing the residence and mailing address of each inventor. On 14 January, 2004, a petition under 37 CFR 1.47(a) was filed. On 8 March, 2004, the petition was dismissed.

In response, the present renewed petition was filed on 10 March, 2004. Petitioners state that joint inventor Baum refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), petitioners have not presented an oath or declaration that contains the residence and mailing address of non-signing inventor Baum. The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[1] Petitioners **must** submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, identifying the residence and mailing address of both the signing and the non-signing inventors, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

In accepting the petition filed on 10 March, 2004, the Office is construing counsel's statement to mean that counsel has first-hand knowledge that the application papers were sent to the last known address of the non-signing inventor. Petitioners **must** inform the Office if this is not a correct statement.

[1] 37 CFR 1.63(c).

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: 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUN 18 2004

OFFICE OF PETITIONS

In re Application of	:	
Redd and Baum	:	DECISION REFUSING STATUS
Application No. 10/627,393	:	UNDER 37 CFR 1.47(a)
Filed: 25 July, 2003	:	
Atty Docket No. SF005C	:	
	:	

This is in response to the twice renewed petition filed by facsimile under 37 CFR 1.47(a) on 19 April, 2004.

The petition is again **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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 July, 2003, without an executed oath or declaration.

Accordingly, on 29 October, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. In response, on 17 November, 2003, petitioners filed a declaration naming Jarrett L. Redd and Daniel R. Baum as joint inventors, signed by joint inventor Redd, and the late-filing surcharge.

Accordingly, on 29 December, 2003, Initial Patent Examination Division mailed an additional Notice to Filing Missing Parts requiring the signature of joint inventor Baum on the declaration, and requiring a new oath or declaration containing the residence and mailing address of each inventor. On 14 January, 2004, a petition under 37 CFR 1.47(a) was filed. On 8 March, 2004, the petition was dismissed.

The petition filed on 10 March, 2004, was dismissed on 2 April, 2004. In response, the present renewed petition was filed on 19 March, 2004.

Petitioners state that joint inventor Baum refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), petitioners have still not presented an **oath or declaration** that contains the residence and mailing address of non-signing inventor Baum. Petitioners were advised in the decision mailed on 2 April, 2004, that a new oath or declaration identifying the mailing address and residence of the non-signing inventor is required. The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[1] Petitioners **must** submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, identifying the residence and mailing address of both the signing and the non-signing inventors, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

It is noted that petitioners submitted the residence and mailing addresses of the non-signing inventor in the reply. However, the residence and mailing address of all inventors **must** be stated in the **oath or declaration**.

---

[1] 37 CFR 1.63(c).

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

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Commissioner for Patents
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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Redd and Baum	: DECISION ACCORDING STATUS
Application No. 10/627,393	: UNDER 37 CFR 1.47(a)
Filed: 25 July, 2003	:
Atty Docket No. SF005C	:
	:

This is in response to the thrice renewed petition filed by facsimile under 37 CFR 1.47(a) on 7 July, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney Xin Wen, that a copy of the application was sent by mail and E-mail to the non-signing inventor, David R. Baum. However, the non-signing inventor has failed to sign and return the declaration.

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 Declaration. 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 Technology Center 2800 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Daniel R. Baum
685 San Mateo Drive
Menlo Park CA 94025

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of
Redd et al.
Application No. 10/627,393
Filed: 25 July, 2003
For: Image prints having customized backprinting message

Dear Mr. Baum:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. 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).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

XIN WEN
2800 BRIDGE PARKWAY
REDWOOD CITY CA 94065

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Paper No. 082404

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

SEP 7 2004

In re Application of:
RICHARD KENDRICK
Serial No.: 10/627,404
Filed: July 25, 2003
Attorney Docket No.: **040092-019710US**

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 March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 05 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed 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

cc: MCDERMOTT, WILL & EMERGY
18191 VON KARMAN, AVENUE, SUITE 400
IRVINE, CA 92612

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of :
Poirer et al :
Application No. 10/627,407 : ON PETITION
Filed: July 25, 2003 :
Attorney Docket No. PCC115 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on May 2, 2005, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filed nonprovisional Application 10/314,911 filed December 9, 2002.

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

The instant petition does not comply with item (1)

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed May 2, 2005. However, the amendment is not acceptable as drafted since it claims reference to an application

(60/398,744) in which there are no common inventors. It appears petitioner may have intended to reference provisional application no. 60/398, 774 .

Accordingly, before the petition under 37 CFR 1.78 (a)(3) can be granted a substitute amendment referencing the correct prior filed applications is required.

Further correspondence with respect to this matter may 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 delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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GEORGE R. NIMMER
P. O. BOX 252
OMAHA, NE 68101-0252

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MAR 16 2004

OFFICE OF PETITIONS

In re Application of :
Thomas L. Bybee et al. :
Application No. 10/627,415 :
Filed: July 25, 2003 :
Attorney Docket No. :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 22, 2003.

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).

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.

As to item (1), the petitioner states "On October 21, 2003 a letter was sent to Tom Bybee, Dave Murphy, Steve Wright and Sheri Kime, four of the joint inventors in the above-identified patent application, requesting that they each sign a declaration for the application, and an assignment of the application."

The letters mailed on October 21, 2003 indicated that a Declaration for the application and an Assignment of the application were mailed to the non-signing inventors (Tom Bybee, Dave Murphy, Steve Wright and Sheri Kime) for signature. However, it is not merely enough that the non-signing inventors' signatures on the declaration were requested. Petitioner must demonstrate that the non-signing inventors were presented with a copy of the application papers (specification, claims and drawings). Otherwise, the non-signing inventors could not attest that they have "reviewed and understand the application papers" and therefore could not sign the declarations which were requested for each inventor to sign. Accordingly, under Rule 47, the

applicant failed to show or provide proof that the non-signing inventors have refused to sign the declaration. Did the non-signing inventors receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that copies of the application papers were presented to the non-signing inventors, but the non-signing inventors did not respond to the petitioner's request that they sign the oath/declaration in order to show that the inventors have refused to join in the application.

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GEORGE R. NIMMER
P.O. BOX 252
OMAHA, NE 68101-0252

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Thomas L. Bybee et al.	:	
Application No. 10/627,415	:	DECISION GRANTING
Filed: July 25, 2003	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No.	:	

This is in response to the petition filed May 28, 2004, requesting reconsideration of a decision mailed March 16, 2004, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventors (Tom Bybee, Dave Murphy, Steve Wright and Sheri Kime) have 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 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.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DUGAN & DUGAN, P.C.
55 SOUTH BROADWAY
TARRYTOWN NY 10591

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OFFICE OF PETITIONS

In re Patent No. 7,091,132 :
Issue Date: August 15, 2006 :
Application No. 10/627,416 : ON PETITION
Filed: July 24, 2003 :
Attorney Docket No. 10891 :

This is a decision on the petition filed October 17, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. 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.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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

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CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

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JUL 27 2005

OFFICE OF PETITIONS

In re Patent of :
Ellen Leue :
Patent No. PP15,054 :
Issued: July 27, 2004 : ON PETITION
For: HIBISCUS PLANT 'BALHIBLU' :

This is a decision on the Petition, filed MaRCH 21, 2005, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Pleiman et al..	:	
Application No. 10/627,434	:	DECISION GRANTING PETITION
Filed: July 25, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 29939/38600A	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/398,752, filed July 26, 2002, as set forth in the concurrently filed Application Data Sheet (ADS).

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 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/398,752, which was filed on July 26, 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 ADS, 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.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. Any other inquiries concerning the status of the application should be directed to the Publishing Division.

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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VIERRA MAGEN MARCUS
& DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO, CA 94105

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of

Jung W. Lee

Application No. 10/627,455

Filed: July 25, 2003

Attorney Docket No. JWLE-01000US0

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 17, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 17, 2005, after it was believed that no response was received to the non-final Office action mailed June 16, 2005. The non-final Office action allowed a shortened statutory period for reply of three 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 December 29, 2005, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was mailed on December 16, 2005. A copy of the amendment containing a certificate of mailing dated December 16, 2005 accompanied the petition. A copy of the Office date-stamp postcard whereby the Office acknowledged having received a response to the non-final Office action on December 19, 2005, also accompanied the petition. A review of the application file revealed that an amendment was received on December 19, 2005 (certificate of mailing dated December 16, 2005.)

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

It is noted that the fee for the request for extension of time within the third month was paid in duplicate. The amount of $510.00 will be refunded, in due course.

The application file is being forwarded Technology Center 3700, GAU 3747, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/12/08

Paper No.: ---

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/622459 Patent No.: 7140850 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

DEVON KRAMER
SUPERVISORY PATENT EXAMINER

Devon Kramer
SPE

3746
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 17 2004

Lorrain Hirsch, Esq.
Law Offices of Lorraine Hirsch
17491 Hicks Road
Lo Gatos CA 95032

In re Application	:	
Marlene Ann Sexson	:	
Serial No.: 10/627,462	:	DECISION ON PETITION
Filed: July 25, 2003	:	
For: Folding Disposable Toothbrush	:	

This is in response to applicants' petition filed June 7, 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. Therefore 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 John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Austin Rapp & Hardman
170 South Main Street, Suite 735
Salt Lake City, UT 84101

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MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Bruce K. Grant	:	
Application No. 10/627,464	:	ON PETITION
Filed: July 26, 2003	:	
Attorney Docket No. 3412.2.6	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2192 for appropriate action by the Examiner in the normal course of business on the reply received February 24, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 05/21/2010

Applicant	: Timothy R. Machold	: DECISION ON REQUEST FOR
Patent Number	: 7658755	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/627,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

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OFFICE OF PETITIONS

In re Application of Zoch et al. :
Application No. 10/627,501 : Decision on Petition
Filing Date: July 25, 2003 :
Attorney Docket No. 032301.341 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly reply within three months to the final Office action mailed July 6, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on October 7, 2005. A Notice of Abandonment was mailed on January 31, 2006.

The instant petition requests revival of the application.

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 1713 will be informed of the instant decision and the examiner will give further consideration to the merits of the application 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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George Yee
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

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SEP 2 8 2005

Technology Center 2100

In re Application of:
Kenji YAMAGARMI
Application No. 10/627,507
Filed: July 25, 2003
For: METHOD AND APPARATUS FOR SYNCHRONIZINGS FOR DATA RECOVERY USING STORAGE BASED JOURNALING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on September 06, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 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. 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.

Applicant's submission of September 06, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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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	:	
Gianni Fasan	:	DECISION ON
Application No. 10/627,508	:	PETITION
Filed: July 25, 2003	:	
Attorney Docket No. 5154P001	:	

This is a decision on the "Petition to Revive of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)," filed October 31, 2005.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed April 11, 2005. This Office action set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply having been filed and no extensions of time obtained, the above-identified application became abandoned on July 11, 2005. A Notice of Abandonment was mailed on November 1, 2005.

The instant petition includes not only a statement of unintentional delay, but also the required reply in the form of an amendment and payment of the $750 petition fee. No terminal disclaimer is required on this petition.

The Technology Center has been advised of this decision. The application is, thereby, forwarded to Technology Center AU 3732 for consideration by the examiner of the amendment filed October 31, 2005.

Telephone inquiries regarding this decision 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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Stephen M. De Klerk
BLAKELY,SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :

Kramadhativ Ravi :

Application No. 10/627,509 :

Filed: July 24, 2003 :

Attorney Docket No. 042390P16670

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 9, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and the publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed February 14, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on May 15, 2005. A Notice of Abandonment was mailed on August 8, 2005.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

10/29/03

Stephanie Seidman
Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive 7th Floor
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/627,517 received on 9/26/03 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
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
Keppler :
Application No. 10/627,519 : ON PETITION
Filed: July 25, 2003 :
Attorney Docket No. 63899.8001.US00 :
For: COMPOSITIONS CONTAINING A RUTHENIUM(III) COMPLEX AND A HETEROCYCLE

This is a decision on the petition filed November 9, 2007 under 37 CFR 1.137(a) to revive the above-identified application. The petition will be treated under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed March 28, 2007, which set a non-extendable period for reply of 60 days from the mail date of the Notice. Having received no reply, the Office considered the application abandoned on May 28, 2007. A Notice of Abandonment was mailed on October 22, 2007.

The Office received a proper Power of Attorney and Correspondence Address Indication Form on February 28, 2007. Unfortunately, the Office did not promptly enter the requested changes. This error resulted in the March 28, 2007 Notice being mailed to an out of date correspondence address. The requested changes were not entered into Office databases until March 30, 2007.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. The $255.00 petition fee will be credited to deposit account no. 50-2586.

There is no need to re-mail the Office action in question, as petitioner has submitted a response to it with the present petition.

After the mailing of this decision, the application file will be forwarded to Publications Division for consideration of the corrected drawings filed on November 9, 2007.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of
Elliot A. Rudell et al.
Application No. 10/627,529
Filed: July 25, 2003
Attorney Docket No. 155660-0222

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 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 an Office action mailed August 14, 2006. This decision precedes the mailing of a Notice of Abandonment. However, on May 15, 2007, the present petition was filed.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $790; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3764 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

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PETITION DECISION

06/03/04

Richard M. Shane
Kimberly-Clark Worldwide, Inc.
401 North Lake Street
Neenah, WI 54956

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/627539 received on 05/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,539	07/25/2003	Carl James Davis	18858	3681

23556 7590 03/02/2005

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER	
OSELE, MARK A	

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 03/02/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 2 2005

In re Application of	:	
DAVIS, CARL JAMES et. al.	:	NOTICE OF WITHDRAWAL
Serial No.10/627539	:	FROM ISSUE
Filed: July 25, 2003	:	UNDER 37 CFR 1.313(b)
For: ROTARY HEAT SEALING DEVICE AND METHOD	:	

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 Christopher Fiorilla (571) 272-1187.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

cc: Allowed Files—Pk3-910

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QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of	
Bauer et al.	
Application No. 10/627,547	DECISION DISMISSING PETITION
Filed: July 25, 2003	
Attorney Docket No. 5053.00009	
Title of Invention: Online Bidding System	

This is a decision on the petition filed November 17, 2003, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed October 23, 2003, be withdrawn.

The petition is dismissed.

The application was filed on July 25, 2003. However, on October 23, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application"Notice" stating that the application had been accorded a filing date of July 25, 2003 and advising applicant that figure 3a as described in the specification appeared to have been omitted.

In response, on November 17, 2003, applicant filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of five sheets of drawings (4 figures) on July 25, 2003. Additionally, applicant submitted a copy of figure 3a. Petitioner argues figure 3a was submitted on July 25, 2003.

A review of the record shows that five (5) sheets of drawings were filed on July 25, 2003 and are presently in the file. However, the file shows no sheets of drawings containing figure 3a were filed on July 25, 2003.

It is noted that the postcard refers to five (5) sheets of drawings but the official record clearly shows that the 5 sheets of drawings did not contain figure 3a. Instead the record shows the Office is in receipt of two copies of figure 3b. Assuming

arguendo that applicant's postcard receipt could be said to constitute *prima facie* evidence that figure 3a was received in the Office on July 25, 2003, the evidence is rebuttable, not conclusive. In this case, the evidence is rebutted by the fact that applicant has submitted one sheet of drawing which was not present on July 25, 2003. A comparison of the drawing submitted with the instant petition confirms that figure 3a is not one of the figures received on July 25, 2003. The facts and evidence at hand rebut the postcard receipt to the extent that figure 3a was not submitted.

The drawing containing figure 3a submitted on November 17, 2003 will not be entered.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of July 25, 2003**, using the 5 sheets of drawings supplied on July 25, 2003.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 301 GRANT STREET
20TH FLOOR
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Ledbetter, et al. :
Application No. 10/627,556 : ON PETITION
Filed: July 26, 2003 :
Attorney Docket No. 49076.000004.CIP2 :

This is a decision on the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10 filed, June 28, 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. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to correct what petitioner believes is an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be July 25, 2003, not the currently accorded date of July 26, 2003. In support thereof, petitioner filed declarations from several persons corroborating the facts detailed in the instant petition. Petitioner is requesting that the requirements of 37 C.F.R 1.10 be waived because petitioner was presented with extraordinary circumstances that prevented the deposit of the patent application with the United States Postal Service before the last scheduled pick-up on July 25, 2003, and because justice requires such waiver in this instance.

Petitioner's request cannot be granted based on the facts presented. The reasons petitioner's arguments must fail are addressed below.

In this instance, petitioner is actually requesting waiver of a statutory requirement, not simply the requirements of a rule, insofar as petitioner is requesting a date other than the date the application was actually deposited with the United States Postal Service. Section 1.10(a) of Title 37 of the Code of Federal Regulations dictates that, "[a]ny correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS." This indication of 37 C.F.R 1.10(a) is based in statute, specifically 35 U.S.C. 21(a) that provides that, "[t]he Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark office will be considered filed in the Office on the date on which it was deposited with United States

Postal Service or would have been deposited with the United States Postal Service but for postal interruptions or emergencies designated by the Director." In order to accord the subject application a filing date of July 25, 2003, the Commissioner would have to suspend the requirement implicit in 35 U.S.C. 21(a) that the filing date accorded an application be the date the application was actually deposited with the United States Postal Service in favor of the date the application was intended to deposited. Petitioner is aware that 37 CFR 1.183 only authorizes suspension or waiver of requirements of rules that are not also requirements of the statutes. In this case, suspension of the requirement that the filing date accorded the application be the date the application was deposited with the United States Postal Service is not possible as this is a requirement of 35 U.S.C. 21(a).

It is also noted that petitioner makes an effort to explain that ordinary care and diligence were exercised in the preparation of the patent application such that justice would require suspension of the requirements under 37 CF.R 1.10. Petitioner's efforts are noted, however, petitioner failed to mention that petitioner waited until nearly midnight on the last day the application could be deposited with the USPS to satisfy petitioner's requirements relative to the PCT application. Arguably, this may be considered a lack of the exercise of the reasonable care and diligence given the deadline under which petitioner was operating, and, therefore, not an extraordinary circumstance warranting waiver of the rules. See *Vincent v. Mossinghoff*, 230 USPQ 621 (D.D.C. 1985). Further, it may be argued that petitioner's unawareness of the new post office hours, and consequential failure to deposit the application with the USPS before the last scheduled pick-up, while unfortunate, is not an extraordinary situation that would warrant waiver of the requirements of 37 C.F.R 1.10. See also *MPEP* 513.

Based on the aforementioned, the instant petition under 37 C.F.R 183 to waive the requirements of 37 C.F.R. 1.10 is dismissed. Petitioner is advised that the undersigned consulted with the Office of Patent Legal Administration prior to authoring this decision.

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

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Ledbetter, et al. :
Application No. 10/627,556 : ON PETITION
Filed: July 26, 2003 :
Attorney Docket No. 49076.000004.CIP2 :

This is a decision on the renewed petition, filed March 7, 2005, under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10.

The renewed petition is **dismissed.**

The instant renewed petition was filed to correct what petitioner believes is an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be July 25, 2003, not the currently accorded date of July 26, 2003. A petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10 was first filed on June 28, 2004, and dismissed by a decision mailed August 3, 2004.

It is noted that the decision of August 3, 2004, made the argument that the requirements of 37 CFR 1.10 could not be suspended as the requirements of 37 CFR 1.10 are requirements of a 35 U.S.C. 21(a) which the Patent and Trademark Office has no authority to waive. Petitioner's argument to the contrary, as made in the instant renewed petition, is persuasive especially when paired with the undersigned's reading of section 513 of the *Manual of Patent Examining Procedure* (MPEP). Accordingly, it is conceded that the requirements of 37 CFR 1.10 can be suspended pursuant to 37 CFR 1.183 if petitioner demonstrates that an "extraordinary situation" prevented compliance with 37 CFR 1.10. Petitioner has not established that an "extraordinary situation" prevented the subject application from being deposited with the United States Postal Service (USPS), Express Mail Service on July 25, 2003, such that the requirements of 37 CFR 1.10 should be suspended. Petitioner will note that this decision also addresses some arguments made in petition filed June 28, 2004, that were not adequately addressed in the decision of August 3, 2004.

Petitioner argues that the "extraordinary situation" resulted, in part, from a routine and scheduled shut down of the law firm's server at 10:00 p.m. PST on June 25, 2003.[1] Petitioner further states that the

[1] The petition of June 28, 2004, indicates that the law firm's server was routinely shut down at 1:00 EST (10:00 p.m. PST) for maintenance.

Intellectual Property (IP) group of the law firm that was preparing the application was small and relatively new to the firm and unaware of this practice at the time. Counsel's unawareness of the routine shut down of the server does not imply a lack of diligence or exercise of ordinary care relative to the filing of the application, but counsel's unawareness of a routine and scheduled shut down of the law firm's server does not amount to an "extraordinary situation" such that the Office should provide such an extraordinary remedy as according the subject application a filing date other than the date it was deposited with the Express Mail Service. While the term "extraordinary situation", as it is used in 37 CFR 1.183, is not clearly defined, it is arguable that the term "extraordinary situation" was not meant to include a situation where the preparation of a patent application was delayed because of the routine and scheduled maintenance of a server which, regretfully, some of the remote employees of the law firm were not made aware.

Petitioner further argues that the change of operating hours for the Midway branch of the USPS presented an "extraordinary situation." In support, petitioner filed the declarations of Dale Stuckey, Jr. and John Norton, both employees of the Midway branch, in which they state that they were presented with the Express Mail package containing the subject application at 11:40 p.m. on June 25, 2003, but declined to accept the package because the Express Mail window closed at 11:00 p.m. The declarations and petition do not indicate that the refusal to accept the package was arbitrary, rather that the post office hours had changed. Petitioner is careful to note that Ms. Kielt, who attempted to make the deposit, was reasonable in relying on the fact that the post office was open until 12:00 a.m. as deposits were routinely made to this post office with the closing time understood to be 12:00 a.m. Ms. Kielt's may have been reasonable in relying on her understanding of the Midway branch's hours, but, absent evidence that the Midway branch decided arbitrarily on June 25, 2003, to stop accepting Express Mail after 11:00, the change in the post office's hours is not extraordinary. The post office's change in operating hours and petitioner's failure to note the same do not constitute an "extraordinary situation." It is a fact that businesses, including the branches of the United States Post Office, change their operating hours and that the hours of operation may not be same at all post offices. While the customer may be inconvenienced by such a change (especially when the customer is not previously made aware of the change, as in this case) the change in operating hours cannot be viewed as an "extraordinary situation" especially when the post office cannot be said to have acted arbitrarily, i.e., changing the hours of operation frequently. While the post office's change in operating hours, unbeknownst to petitioner, is unfortunate, it is not extraordinary based on the facts presented.

It is further noted that petitioner suggests that an agency relationship exists between the United States Postal Service (USPS) and the USPTO and that the USPTO should, therefore, provide petitioner with a remedy for the "unwarranted action of the Post Office, [inconsistency] of the hours of operation for Express Mail at different Post Office locations, and changes in those hours of operation after longstanding reliance had been established." The question of whether an agency relationship exists between the USPS and the USPTO will be not be addressed here, but it is sufficient to state that the USPTO has no authority to set policy for or effect the hours of operation of the branches of the USPS. Certainly, the USPTO can provide a remedy where it is established that in refusing to accept an Express Mail package, the post office acted arbitrarily—'arbitrarily' meaning conducting business in manner that is contrary to the branch's policies and procedures. Petitioner has not, however, established that the Midway post office branch acted arbitrarily relative to the Express Mail package in question.

Finally, petitioner intimates that the refusal of the Midway branch to accept the Express Mail package on June 25, 2003, should be designated as a postal interruption or emergency pursuant to 35 U.S.C. § 21 and 37 CFR 1.6(e). It is noted that Section 511 of the MPEP provides, in pertinent part, that:

> The statute requires that the correspondence was complete and ready to be deposited with the USPS on the filing date requested (e.g., complete application papers have been prepared and printed) and that the correspondence could not have been deposited with the USPS on the requested filing date for the sole reason that the postal service was not available due to the interruption or emergency designated by the Office.

The Office of Petitions does not have the authority to decide what is, or is not, a postal interruption or emergency, as the terms are used in the relevant statute and rule. At the time this decision was authored, there was no notification from the Commissioner that a designated postal interruption or emergency existed on June 25, 2003, relative to the Midway branch of the USPS that would affect the filing date of the subject application. Absent such a determination, the Office does not have the authority to grant the application a filing date other than the date it was actually received at the USPTO or the date it was actually deposited with the USPS, Express Mail Service.

Based on the aforementioned, the renewed petition under 37 CFR 1.183 to suspend the requirements of 37 CFR 1.10 is dismissed.

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

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Eisenlohr et al. :
Application No. 10/627,588 :
Filed: July 25, 2004 : ON PETITION
Attorney Docket No. :
003252-53311-C :

This is a decision in response to the Petition to Correct Correspondence Filing Date for "Date-In" Incorrectly Entered or Omitted on Express Mail Label (37 CFR 1.10(d)), filed August 5, 2004, requesting the application be accorded a filing date of July 25, 2004, instead of the presently accorded filing date of July 28, 2004.

This Petition is hereby **granted**.

Applicant alleges that the application was deposited in Express Mail service on July 25, 2004. In support of this assertion, the petition is accompanied by a copy of Applicant's Express Mail mailing label No. EL948181482US. Although the "Date In" indicated on the Express Mail label for Express Mail Label No. EL948181482US is July 31, 2003, the USPS Date Stamped on the Express Mail Label No. EL948181482US is July 25, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee is necessary.

This application is an Image File wrapper ("IFW") and as such, no forwarding of the file is necessary. A message will be forwarded to the Office of Initial Patent Examination for correction of the filing date to July 25, 2003, and for the mailing of a corrected Filing Receipt.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

Applicant: Hastings et al.
Appl. No.: 10/627,604
Filing Date: July 28, 2003
Title: HUMAN CCN-LIKE GROWTH FACTOR
Attorney Docket No.: PF185D1C2
Pub. No.: US 2004/0111667 A1
Pub. Date: June 10, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 10, 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

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ETHAN LAW GROUP
c/o LandonIP, Inc
1700 Diagonal Road
Suite 450
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Patent of	:	
Shnaps et al.	:	
Application No. 10/627,630	:	DECISION
Filed: July 28, 2003	:	ON PETITION
Attorney Docket Number:	:	
P-5722-US	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed December 28, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 24, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply on May 24, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed July 5, 2005. No timely and proper reply having been received, the application became abandoned May 25, 2005. A Notice of Abandonment was mailed November 21, 2005.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of the Amendment.

This application is being returned to Technology Center 3644 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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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Moshe Shnaps, et al.
Application No. 10/627,630
Filed: July 28, 2003
Attorney Docket No. P-5722-US

ON PETITION

This is a decision in response to the petition, filed October 22, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Office communication mailed March 29, 2007. A Notice of Abandonment was mailed on September 12, 2007. In response, on October 22, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on October 22, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3644 for consideration of the amendment filed October 22, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Lena Edelman et al. :
Application No. 10/627,649 : DECISION ON PETITION
Filed: July 28, 2003 : TO WITHDRAW
Attorney Docket No. 03495.0378-00 : FROM RECORD
:

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2007 and September 24, 2007.

The request is **APPROVED**.

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

The requests were signed by Deborah Katz, former attorney with the firm of Finnegan, Henderson, Farabow, Garrett & Dunner.

Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding Office actions at this time.

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

Kimberly Inabinet

Kimberly Inabinet
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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MAR 16 2004

Kening Li, Ph.D.
COWELL & MORNING, LLP
Intellectual Poperty Group
P.O. Box 1300
Washington, DC 20044-2500

In re Application of	:	
SHUWEI YANG	:	
Serial No. 10/627,711	:	DECISION ON PETITION
Filing Date: July 28, 2003	:	
Attorney Docket No.: 51236US	:	

This is in response to applicant's "Petition to Make Special Under 37 CFR 1.102" filed February 3, 2004.

Applicant has already established the small entity status for the instant application. Applicant's statement for requesting special status has been considered. The requirements under 37 CFR 1.102 and MPEP 708.02, XII have been met. Accordingly, the petition is granted. Prosecution will proceed according to the procedure set forth in MPEP 708.02; there is no provision for "withdrawal from this special status.

Petition Granted.

Bruce Kisliuk
Director, TC1600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 19 2004

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

In re Application of	:
Dennis S. Fernandez et al	:
Serial No.: 10/627,711	: PETITION TO MAKE SPECIAL
Filed: October 18, 2002	:
Attorney Docket No.: FERN-P011	:

This is in response to the petition filed October 18, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

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

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: March 17, 2008
TO: Certificates of Correction Branch
FROM: Douglas W. Owens
SPE, Art Unit 2821
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,927,729 as specified on the attached Certificate.

Douglas W. Owens, SPE
Art Unit 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,927,729
Patented: August 9, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Hervé LEGAY
Marc THEVENOT
Bernard Jean-Louis JECKO
Thierry MONEDIERE
Regis CHANTALAT
Ludovic LEGER
Patrick DUMON

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821

United States
Patent And
Trademark Office

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

PETITION DECISION

04/20/04

Peter M. Dichiara
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/627799 received on 03/28/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,440,599	:	
Kato	:	DECISION ON
Issue Date: October 21, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/627,812	:	OF
Filed: July 28, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 240378US2TTC	:	

This is in response to the "PETITION UNDER 37 CFR 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed December 19, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred seventy-three (973) days to one thousand two hundred sixty-two (1,262) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 21, 2008, the above-identified application matured into US Patent No. 7,440,599 with a patent term adjustment of 973 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentee contends that the Office erred in determining patent term adjustment published on the face of the '599 patent by not properly accounting for the period of time where issuance of the '599 patent was delayed beyond three years of pendency (35 U.S.C. §154(b)(1)(B)).

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 622 days. This 622 day period is calculated based on the

application having been filed under 35 U.S.C. §111(a) on July 28, 2003, and a request for continued examination (RCE) having been filed on April 10, 2008. The filing of a RCE cuts-off an applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

In this instance, a RCE was filed on April 10, 2008. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended April 10, 2008. Accordingly, the period of adjustment under § 1.702(b) is 622 days, counting the number of days beginning on July 29, 2006 and ending on April 10, 2008.

Patentee asserts that in addition to this 622 day period, he is entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 1,001 days for failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final Office action was mailed on June 26, 2007, which is 14 months and 1,001 days after the application was filed.

Under 37 CFR § 1.703(f), Patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentee failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of Patentee delay. The period of reduction of 28 days for Patentee delay is not in dispute[1]. Patentee asserts that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (622 days) and the period of Examination Delay (1,001 days) to the extent that these periods of delay are not overlapping.

Patentee contends that a portion of the 14 month examination delay of 1,001 days (September 29, 2004 to June 26, 2007) overlaps with a portion of the Three Year Delay period (July 29, 2006 to April 19, 2008 (adjusted because RCE was filed).

---

[1] The period of reduction is, pursuant to 37 CFR 1.704(c)(8), 28 days for filing a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed.

Accordingly, Patentee submits that the total period of Office Delay is 1,290 days, which is the sum of the period of the adjusted Three Year Delay (622 days) and the period of Examination Delay (1,001 days), reduced by the period of overlap (333 days). See p. 7 of petition.

As such, Patentee asserts entitlement to a patent term adjustment of 1,262 days (622 + 1,001 reduced by 333 overlap - 28 (Patentee delay)).

The Office agrees that the action detailed above was not taken within a specified time frame, and thus, the entry of period of adjustment of 1,001 days is correct. At issue is whether Patentee should accrue 289 days of patent term adjustment (as calculated by Patentee, considering Patentee's definition of overlap) for the Office taking in excess of three years to issue the patent, as well as, 1,001 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 622 days overlap. Patentee's interpretation of the period of overlap has been considered and found to be incorrect. 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. 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).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for

periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 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 other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on July 29, 2006, the date that is 3 years after the actual filing date of the application is incorrect.

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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, July 28, 2003 to October 21, 2008. During that time, the issuance of the patent was delayed by 1001 days, not 1001 + 622 days. The Office took 14 months and 1001 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1001 days of Office delay and the 28 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time the request for continued examination was filed, the application had been pending three years and 622 days after its filing date. The Office did not delay 1001 days and then an additional 622 days. Accordingly, 1001 days of patent term adjustment (not 1001 and 622 days) was properly entered since the period of delay of 622 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1001 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. The entire 622 days and not just 333 days overlap with the 1001 days of Office delay. 1001 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 622 days over three years to the filing of the request for continued examination. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct determination of patent term adjustment at the time of the issuance of the patent is 973 days (1001 - 28).

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 the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

In re Patent No. 6,818,491	:	
Issue Date: November 16, 2004	:	
Application No. 10/627,834	:	ON PETITION
Filed: July 25, 2003	:	
Attorney Docket No. AP01-002B	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 10, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 16, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gerald E. McGlynn, III
Bliss, McGlynn, P.C.
2075 West Big Beaver Road
Troy, MI 48084

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JUL 07 2004

OFFICE OF PETITIONS

In re Application of :
Blair et al. :
Application No. 10/627,845 :
Filed: April 30, 2004 :
Attorney Docket No. DKT01085C(0267.00047) :

Decision on Petition

This is a decision on the petition filed April 30, 2004, to accord the above-identified application a filing date of April 30, 2004.

The petition is **dismissed as moot**.

On April 20, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition supplies the drawings along with a paper entitled, "Petition Requesting Later Filing Date Under 37 CFR 1.18 in Re-Submission of Omitted Item." The petition requests that the date that the omitted items are being supplied be the filing date of the application.

The Notice did not require the submission of a petition in order to supply the drawings and to accept the date of such submission as the filing date. Therefore, the petition is unnecessary and dismissed as moot.

The declaration filed with the petition refers to the application as deposited on July 24, 2003, and does not refer to the missing drawings since the drawings were not included with the application papers deposited on July 24, 2003. Accordingly, a supplemental oath or declaration by the inventors must be supplied. The supplemental oath or declaration must identify the specification to which it is directed (preferably by reference to the above-identified Application Number, the original deposit date, and the filing date) and must also clearly refer to the missing drawings. The surcharge under 37 CFR 1.16(e) is also required. The supplemental oath or declaration is required before payment of the issue fee or any earlier time set by the examiner or the Office of Initial Patent Examination.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 30, 2004, using the application papers filed on July 24, 2003, and the drawings filed on April 30, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

OIPE
MAY 15 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit:	3681
Examiner:	Bolton, Tara L.
Inventor(s):	Blair et al.
Serial No.:	10/627,845
Filing Date:	April 30, 2004
For:	BI-DIRECTIONAL FOUR MODE CLUTCH FOR PROVIDING LOW AND REVERSE GEAR RATIOS IN A TRANSMISSION

RESPONSE TO DECISION ON PETITION

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

Dear Sir:

This is in response to the "Decision on Petition" dated July 7, 2004 in connection with the above-captioned patent application. Enclosed herewith is a Supplemental Declaration as well as the $130.00 surcharge under 37 CFR 1.16(f).

05/16/2006 AKELECH1 00000019 10627845
01 FC:1051 130.00 OP

Respectfully submitted,

Gerald E. McGlynn, III
Registration No. 33,737
BLISS McGLYNN, P.C.
2075 W. Big Beaver, Suite 600
Troy, Michigan 48084
(248) 649-6090

Date: May 11, 2006
Docket No.: DKT01085C (0267.00047)

CERTIFICATE OF MAILING: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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, Virginia 22313-1450 on May 11, 2006 Megan L. Schamanek.

Megan L. Schamanek

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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5/18/07

DAVID M QUINLAN, PC
32 NASSAU STREET
SUITE 300
PRINCETON NJ 08542

In re Application of:
USAB, WILLIAM J. JR. ET AL.
Serial No.: 10/627,851
Filed: Jul. 25, 2003
Docket: Attorney Docket Number: 1100.8
Title: APPARATUS AND METHOD FOR ENHANCING LIFT PRODUCED BY AN AIRFOIL

RENEWED DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a decision on the petitions under 37 CFR 1.59(b), filed Mar. 30, 2006 and Mar. 12, 2007 to expunge and return information from the above identified application.

The petition is **GRANTED.**

Petitioner requests that a document entitled Proposal No. N021-0901, A Passive Delayed Stall Propulsor for Enhanced Thrust and Reduced Noise, filed Mar. 30, 2006 be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met all requirements A-E. The information in question also has been determined by the undersigned to not be important to the examination of the instant application. Removal of the material also appears to have been approved in the Notice of Allowability, which was approved by the Primary Examiner on Jan. 8, 2007 further attesting to determination that the information is not important to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent that issues on the above-identified application.

The expunged material has been removed from the official file. It is contained in a non-public Artifact folder associated with the file and will be returned to applicant in due course.

Any questions regarding this petition decision should be directed to Henry Yuen, Technology Center Special Programs Examiner at 571 – 272-4856.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Walter G. Dixon	: DECISION ON REQUEST FOR
Patent Number	: 7657781	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/627,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **557** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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MAR 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Laxmi Priya Parida et al. :
Application No. 10/627,871 :
Filed: July 28, 2003 : DECISION ON PETITION
Attorney Docket No. : PURSUANT TO
YOR920030198US1 : 37 C.F.R. § 1.181(A)
Title: APPARATUS, SYSTEM AND :
METHOD FOR DATA COMPRESSION :
USING IRREDUNDANT PATTERNS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on January 4, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 25, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 26, 2007. A notice of abandonment was mailed on November 7, 2007.

With this petition, Petitioner has alleged that the mailing was not received, and has included a copy of the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing was not received, that the file jacket and the docket record have been searched, and he has included a copy of both.

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

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of April 25, 2007, and will set a new period for response.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

COPY MAILED

JUL 31 2007

OFFICE OF PETITIONS

In re Application of :
Aryan Saed :
Application No. 10/627,881 : DECISION ON PETITION
Filed: July 25, 2003 : TO WITHDRAW
Attorney Docket No. ICE-081 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed December 29, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Kirkpatrick & Lockhart Preston, Gates Ellis, LLP 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

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Michael A. Bernadicou
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1030

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Hannah, et al :
Application No. 10/627,893 :
Filed: July 25, 2003 :
Attorney Docket No. 42390.P12034D2 :
For: WRITE-ONCE POLYMER MEMORY WITH E-BEAM WRITING AND READING

ON PETITION

This is a decision on the petition filed December 14, 2004 (certificate of mailing date December 13, 2004), requesting, in effect, that the Notice of Omitted Items in a Nonprovisional Application (Notice) mailed October 12, 2004 be withdrawn, insofar as it alleges that pages 1 and 2 of the specification were omitted on filing. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **dismissed**.

The application was filed on July 25, 2003. On October 12, 2004, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of July 25, 2003, and advising applicants that pages 1 and 2 of the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that any pages of specification containing page numbers "1" and "2" were present in the Office on July 25, 2003.

Petitioners claim that the specification, filed July 16, 2003, was present in full.

It is obvious from a review of the petition and the application file that no pages of specification were actually missing on July 25, 2003. Petitioners simply did not follow Office procedure. MPEP 608.01 at 600-59 states, "The pages of the specification including claims and abstract must be

numbered consecutively, starting with 1...." Applicants began the specification with page number "3".

Therefore, the Notice mailed October 12, 2004, was correct in stating that pages 1 and 2 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition to withdraw the October 12, 2004 Notice is dismissed. Petitioners should file an amendment to renumber the specification, starting with page "1".

Since the present petition was not necessitated by any error on the part of the Office, the petition fee will be retained. Petitioners are reminded that President Bush signed the Consolidated Appropriations Act on December 8, 2004. This Act changed many patent fees. The 37 CFR 1.53(e) petition fee became $400.00. Petitioners paid only $130.00. Pursuant to petitioners' authorization, deposit account no. 02-2666 will be charged the balance due, or $270.00.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision 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

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Mark A. Shelly
Application No. 10/627,900
Filed: July 25, 2003
Attorney Docket Number: BING-1-1019

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 14, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of Informal or Non-responsive amendment, mailed March 26, 2004. A Notice of Abandonment was mailed November 1, 2004.

Petitioner files the instant petition and argues that a timely response to a non-Final office action mailed December 17, 2003, was timely filed and while that appears to be true, the record reveals that a second Notice was mailed for which no response was filed. Petitioner further argues non-receipt of that Notice due to an address change that was not properly communicated to the USPTO until after the March 26, 2004 notice was mailed.

It does not appear however, that a copy of the March 26, 2004 notice can be located amongst USPTO records. Therefore, under the circumstances of this case and for the purposes of this revival only, the requirement for a response to the Notice of Informal or Non-responsive amendment, under 37 CFR 1.137(b)(1) is waived, sua sponte.

---

[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)).

This matter is being referred back to Technology Center 3644 for consideration of the response to the non-Final Office action, previously filed March 15, 2004.

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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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Dragoi et al.	:	
Application No. 10/627,903	:	DECISION ON PETITION
Filed: July 25, 2003	:	
Attorney Docket No. 2003 P 06848 US01	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 14, 2007, as required by the Notice of Allowance and Fee(s) Due mailed November 14, 2006. Accordingly, the date of abandonment of this application is February 15, 2007. A Notice of Abandonment was mailed March 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and publication fee of $300.00; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Rashmi S. Raj
Siemens Corporation Intellectual Property Department
170 Wood Avenue
South Iselin NJ 08830

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/627,928	07/25/2003	2821	852	9314-42	7	21	4

CONFIRMATION NO. 3648

Julie H. Richardson
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000011918661

Date Mailed: 02/18/2004

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)

W. Kevin Carpenter, Durham, NC;
William Tolbert, Chapel Hill, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2003

Projected Publication Date: 01/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

External modular antennas and wireless terminals incorporating the same

Preliminary Class

343

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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Paper No.

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NORTH CAROLINA 27627

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
Carpenter et al. :
Application No. 10/627,928 :
Filed: July 25, 2003 : ON PETITION
Attorney Docket No. :
9314-42 :

This is a decision in response to the Petition to Accord the Proper Filing Date, filed January 2, 2004, under 37 CFR 1.10(c), requesting the application be accorded a filing date of July 25, 2003, instead of the presently accorded filing date of July 26, 2003.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on July 25, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV318419895US. Although the "Date In" indicated on the Express Mail label is indiscernable, the Express Mail Label is properly addressed to the Commissioner for Patents, and the Express Mail label contains a United States Postal Service (USPS) stamp of July 25, 2003. The same Express Mail label number was placed on the original application papers located in the official file. Petitioner has also provided a copy of the USPS Track and Confirm, which identifies Express Mail label No. EV318419895US as having been accepted for delivery by the USPS on July 25, 2003.

In view of the above, the petition is **granted**. No fee is necessary.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

10/17/03

Stephanie L Seidman
Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive 7th Floor
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/627,941 received on 9/3/03 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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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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

10/07/04

In re Application of
HERNANDEZ et al.
Serial Number: 10/627,947
Filed: July 25, 2003
For: REMOVING METALS FROM SOLUTION USING METAL BINDING COMPOUNDS AND SORBENTS THEREFOR

PETITION UNDER
M.P.E.P.708.02 V

This is in response to the petition filed February 2, 2004, requesting that the above-identified application be granted Special Status under Sections 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.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Michael M. Pritzkau
Attorney at Law
13337 Misty Street
Broomfield, CO 80020

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. : 7,361,279 B2
Serial No. : 10/627,947
Inventor(s) : Hernandez et al.
Issued : April 22, 20087
Title : **REMOVING METALS FROM SOLUTION USING METAL BINDING COMPOUNDS AND SORBENTS THEREFOR**
Docket No. : **XENO-1**

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 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If 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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

PRITZKAU PATENT GROUP, LLC
993 GAPTER ROAD
BOULDER CO 80303

ecw

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/627,950	RADTKEY ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL			CROSS REFERENCE(S)						
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	6	435	91.1	91.2	287.2				
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33				
C 12 Q 1/68									
C 12 P 19/34									
C 12 M 1/34									
C 07 H 21/02									
C 07 H 21/04									

(Assistant Examiner) (Date)	/Frank W Lu/ 6/16/2009 (Primary Examiner) (Date)	Total Claims Allowed: 17	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
	~~2~~		32		62		92		122		152		182
	~~3~~		33		63		93		123		153		183
	~~4~~		34		64		94		124		154		184
	~~5~~		35		65		95		125		155		185
2	6		36		66		96		126		156		186
3	7		37		67		97		127		157		187
5	8		38		68		98		128		158		188
6	9		39		69		99		129		159		189
7	10		40		70		100		130		160		190
8	11		41		71		101		131		161		191
9	12		42		72		102		132		162		192
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14	20		50		80		110		140		170		200
15	21		51		81		111		141		171		201
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	~~30~~		60		90		120		150		180		210

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FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Ferrant and Jacquet :
Application No.: 10/627,955 : DECISION ACCORDING
Filed: July 25, 2003 : RULE 47(a) STATUS
Attorney Docket No: S01022/81076 :
For: DRAM REFRESHMENT

This is in response to the petition under 37 CFR 1.47(b), filed March 30, 2005. The petition will be treated under 37 CFR 1.47(a).

The decision mailed April 29, 2005, is **vacated**.

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.

The above-cited application was filed on July 25, 2003, without a properly executed declaration. On February 3, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by inventor Ferrant. On March 30, 2005, the instant petition was filed along with several exhibits.

Petitioner has shown that inventor Ferrant has constructively refused to join the prosecution of the above-cited 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 23-2825 will be charged $70.00 for the remainder of the instant petition fee.

This application will be directed to Technology Center 2800, GAU 2824 for further processing.

Telephone inquiries 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
P.O. Box 1450
Alexandria, VA 22313-1450
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Mr. Richard Ferrant
Le hameau "Suguensau"
29770 ESQUIBIEN (Finistere), FRANCE

COPY MAILED

MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Ferrant and Jacquet :
Application No.: 10/627,955 : LETTER
Filed: July 25, 2003 :
Attorney Docket No: S01022/81076 :
For: DRAM REFRESHMENT

Dear Mr. Ferrant:

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 joint 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 Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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Finnegan, Henderson, Farabow, Garrett & Dunner LLP
901 New York Avenue, NW
Washington DC 20001-4413

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FEB 21 2006

OFFICE OF PETITIONS

In re	:	
Ritzeler et al.	:	
Application NO. 10/627,978	:	LETTER REGARDING
Filed: July 28, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket NO. 02481.1737-01	:	

This decision is in response to applicants' "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed on December 30, 2005 requesting that the Office review the PTA calculation . ninety-six (96) days to a determination of one hundred and thirty-three (133).

The Office thanks applicants for their good faith and candor in bringing this issue to the attention of the Office.

Applicants letter regarding PTA is **granted.** The office will adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 27 days to a determination of 0 days.

Applicants assert that the Office erred in assessing twenty-seven (27) days of administrative delay against the Office for the non-final rejection mailed on July 8, 2005. Applicants assert that the Office erred in that the amendment was filed on May 26, 2005, not July 8, 2005. Applicant asserts that the non-final rejection was filed within four months of applicant's amendment of March 1, 2005.

Applicants' arguments are persuasive. The record does reflects that the Office mailed a non-final rejection on May 26,2005,not the date of July 8, 2005 that was entered into PALM. Because the mail date of the non-final rejection was May 26, 2005 the Office complied with the requirement of 37 CFR 1.702(a)(2). The errant PALM entry caused the Office to determine that the Office had delayed by a period of twenty-seven (27) days. Accordingly at the

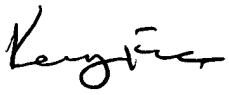
time of the mailing of the notice of allowance, there was no delay by the applicants or the Office.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent.

Any delays in issuing the application more than 4 months after payment of the issue fee and other requirements being satisfied will be reflected in the issue notification letter mailed approximately three weeks prior to issuance of the application.

The Office has not assessed the $200.00 fee for the submission of this letter regarding PTA because this letter was a letter of good faith and candor.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.



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

cc: Adjusted Pair Calculation

EXHIBIT

PALM INTRANET

Day : Friday
Date: 2/17/2006
Time: 18:14:55

PTA Calculations for Application: 10/627978			
Application Filing Date:	07/28/2003	PTO Delay (PTO):	27
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-27		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	02/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		54	
41	02/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	27		
35	10/03/2005	MAIL NOTICE OF ALLOWANCE			
34	09/29/2005	ISSUE REVISION COMPLETED			
33	09/29/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	09/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	09/29/2005	NOTICE OF ALLOWABILITY			
30	07/28/2005	DATE FORWARDED TO EXAMINER			
29	07/18/2005	RESPONSE AFTER NON-FINAL ACTION			
28	07/28/2005	MAIL NON-FINAL REJECTION	27		20
27	07/28/2005	NON-FINAL REJECTION			
24	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
23	03/01/2005	REFERENCE CAPTURE ON IDS			
22	03/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	20
21	03/16/2005	DATE FORWARDED TO EXAMINER			
20	03/01/2005	RESPONSE AFTER NON-FINAL ACTION			
19	12/22/2004	MAIL NON-FINAL REJECTION			
18	12/22/2004	NON-FINAL REJECTION			
17	10/19/2004	DATE FORWARDED TO EXAMINER			
16	09/24/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
15	09/07/2004	MAIL RESTRICTION REQUIREMENT			
14	09/03/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
13	04/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	02/23/2004	APPLICATION RETURN FROM OIPE			
11	02/23/2004	APPLICATION RETURN TO OIPE			

10	02/20/2004	APPLICATION DISPATCHED FROM OIPE			
9	02/23/2004	APPLICATION IS NOW COMPLETE			
8	01/23/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	07/28/2003	CLAIM PRELIMINARY AMENDMENT			
5	10/23/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/13/2003	CASE CLASSIFIED BY L&R			
3	10/13/2003	CLEARED BY OIPE CSR			
2	09/05/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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P.O. BOX 34385
WASHINGTON, DC 20043-9998

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OFFICE OF PETITIONS

In re Application of	:	
Michael Scalora, et. al.	:	
Application No. 10/627,989	:	ON PETITION
Filed: July 28, 2003	:	
Attorney Docket No. 28549-202510	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 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 October 23, 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 after midnight December 23, 2003.

In response, petitioner submitted with the instant petition a Change of Address and Attorney Docket Number, a Supplemental Application Data Sheet, and an authorization to charge $395 for the basic filing fee, a $65 surcharge for the filing of the Oath/Declaration and $665 for the petition to revive fee. However, effective October 1, 2004, the petition to revive fee was increased from $665 to $685. Therefore, as authorized, the above fees have been charged to petitioner's deposit account.

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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Kevin R. Spivak
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean VA 22102

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OFFICE OF PETITIONS

In re Application of :
Frie, Haberer and Liederer :
Application No. 10/627,992 : DECISION ACCORDING STATUS
Filed: July 28, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 449122060300 :
For: Method for Determining a Mass :
Airflow :

This is in response to the petition under 37 CFR 1.47(a), filed May 12, 2004, and resubmitted on June 14, 2004. Applicant obtained a one-month extension of time. Therefore, the petition was timely filed.

The petition is granted.

Applicant has shown that Werner Frie, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Michael Schloegl establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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 present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center 2800 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Brian Hernacki	: DECISION ON REQUEST FOR
Patent Number	: 7620988	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/628,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1251** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SAN RAMON CA 94583-0806

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OFFICE OF PETITIONS

In re Application of :
Stephen J. Miller :
Application No. 10/628,031 : DECISION ON PETITION
Filed: July 24, 2003 :
Attorney Docket No. T-5550A :

This is a decision on the petition filed August 20, 2004, requesting that the above-identified application be accorded a filing date of July 24, 2003, with pages 6 and 38 of the specification as part of the original disclosure.

On July 24, 2003, applicant filed the above-identified application. On June 22, 2004, 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 July 24, 2003, and advising applicant that pages 6 and 38 of the specification appeared to have been omitted.

In response, on August 20, 2004, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of, *inter alia*, 41 pages of specification on July 24, 2003. Additionally, applicant submitted pages 6 and 38 of the specification with the present petition.

In the present petition, applicant states that the application was filed with a total of 41 pages of specification. Applicants request that the application, including pages 6 and 38 of the specification, be accorded a filing date of July 24, 2003.

Upon review of the record, pages 6 and 38 of the specification, deposited on July 24, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 24, 2003, included pages 6 and 38 of specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 6 and 38, was complete on filing and will be granted a filing date of July 24, 2003.

Accordingly, the petition is granted.

The Notice of June 22, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination is directed to process the application with a **filing date of July 24, 2003**, using the application papers submitted on that date and pages 6 and 38 of the specification submitted on August 20, 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/628,036	07/24/2003	2186	450	021202-003740US	8	20	3

CONFIRMATION NO. 3348

37490
CARPENTER & KULAS, LLP
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

UPDATED FILING RECEIPT

OC000000011810407

Date Mailed: 02/02/2004

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)

Amit Ramchandran, San Jose, CA;

Assignment For Published Patent Application

QuickSilver Technology, Inc., San Jose, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/422,063 10/28/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/23/2003

Projected Publication Date: 05/13/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cache for instruction set architecture

Preliminary Class
711

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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SUITE 1140
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Takanari Nakahashi :
Application No. 10/628,039 : ON PETITION
Filed: July 26, 2003 :
Attorney Docket No. 236A 3402 :

This is a decision on the petition under 37 CFR 1.314 filed April 14, 2005, to defer issuance of the patent.

The petition is GRANTED.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to the Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01 and 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

The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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 :
Takanari Nakahashi :
Application No. 10/628,039 : ON PETITION
Filed: July 26, 2003 :
Attorney Docket No. 236A 3402 :

This is a decision on the petition under 37 CFR 1.314 filed June 24, 2005, to defer issuance of the patent.

The petition is DISMISSED.

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 6,910,295. Under the circumstances of this case, the $130.00 petition fee is being refunded to counsel's deposit account. Any inconvenience caused petitioners is regretted.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Marc E. Brown
McDermott, Will & Emery
2049 Century Park East
Los Angeles, CA 90067

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Jackson et al.
Application No. 10/628,044
Filed: July 26, 2003
Attorney Docket No. 066396-0059

This is a decision on the petition filed November 24, 2003, to accord the above-identified application a filing date of July 25, 2003, instead of July 26, 2003.

This decision is based solely on the papers filed on November 24, 2003. The previously filed petition appears to have been misplaced. Any request for reconsideration should include a copy of the previous petition.

The petition is **dismissed**.

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 1.10."

The express mail package was checked into a USPS processing facility at 12:30 am on July 26, 2003. The processing facility does not directly accept packages but receives them from various post offices. A declaration by a USPS employee states that the time from acceptance of the package at a post office until being checked into the facility is "normally" more than 30 minutes.

A request for reconsideration should be filed clarifying the term "normally." For example, is normally 51% of the time, 75% of the time, 99.9% of the time, etc.? Also, the employee refers to the general time from *a* post office to the processing facility rather than the time from *the* post office where the package was received to the processing facility. The Office is concerned only with the second time period.

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
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within two months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Los Angeles, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Jackson et al. :
Application No. 10/628,044 : ON PETITION
Filed: July 26, 2003 :
Attorney Docket No. 066396-0059 :

This is a decision on the renewed petition filed June 15, 2004, to accord the above-identified application a filing date of July 25, 2003, instead of July 26, 2003.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the petition is **granted**.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of July 25, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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c/o Christian R. Andersen
600 Hidden Ridge Drive
Mail Code HQEO3H14
Irving, TX 75038

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OFFICE OF PETITIONS

In re Application of :
Malathi Veeraraghavan, et al. :
Application No. 10/628,080 : ON PETITION
Filed: July 25, 2003 :
Attorney Docket No. Verizon-19/APP (02-1502) :

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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

In re Application of :
Derek Scott, et al. :
Application No. 10/628,092 : DECISION ON PETITION
Filed: July 25, 2003 : TO MAKE SPECIAL
For: **CARBON MONOXIDE AND SMOKE DETECTION APPARATUS** :

This is a decision on the petition filed February 10, 2004 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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ANDREA Q. RYAN
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OFFICE OF PETITIONS

In re Patent No. 7,612,075	:	DECISION ON REQUEST
Ewing, et al.	:	FOR
Issue Date: November 3, 2009	:	RECONSIDERATION OF
Application No. 10/628,093	:	PATENT TERM ADJUSTMENT
Filed: July 25, 2003	:	and
Atty. Docket No. USA2575USCNT1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and seventeen (1,417) 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, eight hundred and thirty (1,830) days[1] is **GRANTED to the extent indicated herein.**

[1] The "B" delay period is 1,197 days, not 831 days. Patentees do not expressly state that the "B" delay is 831 days, but state that the "B" delay is 784 days after the subtraction of 12 days, 34 days, and 1 day as overlapping periods. Thus, it is concluded that patentees calculate the maximum period of "B" delay, before any subtraction of days for overlapping periods, is 831 days. The maximum period of "B" delay period is calculated, counting the number of days beginning on July 26, 2006, and ending on November 3, 2009, the date of issuance. See 1.703(b). The result of 1,197 days is the maximum period of "B" delay prior to any subtraction of days for overlapping periods. Thus, the period of 1,197 days is the period of "B" delay from which any overlapping periods are subtracted.

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

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

The application is being forwarded to the Certificates of Corrections 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, eight hundred and thirty **(1,830)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

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 : 7,612,075 B2

DATED : Nov. 3, 2009

INVENTOR(S) : Ewing, 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 (1162) days

Delete the phrase "by 1162 days" and insert – by 1830 days--

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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Lawrence M. Green
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Patent No. 7,038,590 :
Issue Date: May 2, 2006 :
Application No. 10/628,094 : ON PETITION
Filed: July 25, 2003 :
Attorney Docket No. SO1398.70004.US :

This is a decision on the petition filed September 7, 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**.

It should be noted this petition is granted based on the recordation of the assignment reel 013475, frame 0099 recorded March 11, 2003 in parent application 09/284,598. Pursuant to MPEP 306, in the case of a division or continuation application, a prior assignment recorded against the original application is applied (effective) to the division or continuation application because the assignment recorded against the original application gives the assignee rights to the subject matter common to both applications.

The Notice of recordation of the assignment document recorded on August 10,2006 on reel 018087, frame 0819, was recorded after the issuance of the patent. 37 CFR 3.81 requires the assignment to be submitted before issuance of the patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

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.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Application Number Information

Application Number: **10/628094**
Assignments
Examiner Number: **64294 / MULLEN, THOMAS**

Filing or 371(c) Date: **07/25/2003** eDan
Group Art Unit: **2612**
IFW Madras

Effective Date: **07/25/2003**
Class/Subclass: **340/573.100**

Application Received: **07/28/2003**
Lost Case: **NO**

Pat. Num./Pub. Num: **7038590/20040021573**
Interference Number:

Issue Date: **05/02/2006**
Unmatched Petition: **NO**

Date of Abandonment: **00/00/0000**
L&R Code: Secrecy Code:**1**

Attorney Docket Number: **S01398.70004.US**
Third Level Review: **NO**
Secrecy Order: **NO**

Status: **150 /PATENTED CASE**
Status Date: **04/12/2006**

Confirmation Number: **4257**
Oral Hearing: **NO**

Title of Invention: **PERSONAL SECURITY AND TRACKING SYSTEM**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

Hubman et al

Search Another: Application # [ ] Search **or Patent#** [ ] Search

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PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

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http://EXPOWEB1:8001/cgi-bin/expo/GenInfo/snquery.pl?APPL_ID=10628094

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 7038590 Total Records Found: 4

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/10/2007	00000025	2	1811	$100.00	09/07/2007	CK COFC
09/10/2007	00000026	2	1462	$400.00	09/07/2007	CK pkt
08/14/2006	00000007	4	8021	$40.00	08/10/2006	DA 232825
07/03/2006	00000017	3	8001	$3.00	06/30/2006	CC

Patent Assignment Abstract of Title

Total Assignments: 1
Application #: 10628094 **Filing Dt:** 07/25/2003 **Patent #:** 7038590 **Issue Dt:** 05/02/2006
PCT #: NONE **Publication #:** US20040021573 **Pub Dt:** 02/05/2004
Inventors: Mark Hoffman, Judd Hoffman, Ann Hoffman, David Doe
Title: PERSONAL SECURITY AND TRACKING SYSTEM

Assignment: 1

Reel/Frame	Received:	Recorded:	Mailed:	Pages:
018087 / 0819	08/10/2006	08/10/2006	08/14/2006	3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).
Assignor: SITUS, INC. **Exec Dt:** 03/06/2003
Assignee: HOFFMAN RESOURCES LLC
115 BROAD STREET
6TH FLOOR
BOSTON, MASSACHUSETTS 02110
Correspondent: LAWRENCE M. GREEN
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Search Results as of: 12/19/2007 09:06 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: February 22, 2007 v.2.0

Continuity/Reexam Information for 10/628094

Parent Data
10628094, filed 07/25/2003
is a continuation of 09284598, filed 04/16/1999
is a national stage entry of PCT/US98/00896 International Filing Date: 01/20/1998 Which is a continuation in part of 08881054, filed 06/24/1997
Which is a continuation in part of 08786411, filed 01/21/1997

Child Data
11404206 , filed on 04/14/2006 is a continuation of 10628094 , filed on 07/25/2003

Appln Info | Contents | Petition Info | Atty/Agent Info | **Continuity/Reexam** | Foreign Data

Search Another: Application # [ ] Search **or Patent#** [ ] Search

PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

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PATENT & TRADEMARK OFFICE

Docket No.: S1398.70004US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Mark Hoffman et al.
Serial No.:	10/628,094
Confirmation No.:	4257
Filed:	July 25, 2003
Patent No.:	7,038,590
For:	PERSONAL SECURITY AND TRACKING SYSTEM
Examiner:	Thomas J. Mullen
Art Unit:	2632

Certificate of Mailing Under 37 CFR 1.8(a)
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Office of Petitions. BOX DAC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: September 5, 2007

Rita A. LeBlanc

Office of Petitions
BOX DAC
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. §1.183

Dear Sir:

Applicant hereby requests that the rules be waived under 37 C.F.R. §1.183 to permit the correction of the assignee's name appearing on the above-identified patent. Specifically, the correction will include changing the listed assignee name from Hoffman Recruiters LLC to Hoffman Resources LLC.

The failure to include the correct assignee name was inadvertent.

Attached hereto, please find a copy of the Notice of Recordation of the Assignment Document, which was recorded on August 10, 2006 on Reel 018087, Frame 0819.

09/10/2007 CCHAU1 00000019 7038590
02 FC:1462 400.00 OP

The enclosed check in the amount of $500.00 which includes the Petition fee as required by 37 C.F.R. §1.17(f) and the Certificate of Correction fee as required by 37 C.F.R. §1.20(a). If the fee is insufficient, the balance may be charged to Deposit Account No. 23/2825.

Dated: September 5, 2007

Respectfully submitted,

By _____

Eric L. Amundsen
Registration No.: 46,518
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
(617) 646-8000

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 09284598 **Filing Dt:** 04/16/1999 **Patent #:** 6624754 **Issue Dt:** 09/23/2003

PCT #: NONE **Publication #:** NONE **Pub Dt:**

Inventors: MARK HOFFMAN, JUDD HOFFMAN, ANN HOFFMAN, DAVID DOE

Title: PERSONAL SECURITY AND TRACKING SYSTEM

Assignment: 1

Reel/Frame:	Received:	Recorded:	Mailed:	Pages:
013475 / 0099	03/11/2003	03/11/2003	03/13/2003	2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: SITUS, INC. **Exec Dt:** 03/06/2003

Assignee: HOFFMAN RESOURCES LLC
115 BROAD STREET 6TH FL.
BOSTON, MASSACHUSETTS 02110

Correspondent: WOLF, GREENFIELD & SACKS, P.C.
LAWRENCE M. GREEN
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210

Search Results as of: 12/19/2007 09:36 PM

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Web interface last modified: February 22, 2007 v.2.0

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 09284598 **Filing Dt:** 04/16/1999 **Patent #:** 6624754 **Issue Dt:** 09/23/2003

PCT #: NONE **Publication #:** NONE **Pub Dt:**

Inventors: MARK HOFFMAN, JUDD HOFFMAN, ANN HOFFMAN, DAVID DOE

Title: PERSONAL SECURITY AND TRACKING SYSTEM

Assignment: 1

Reel/Frame:	Received:	Recorded:	Mailed:	Pages:
013475 / 0099	03/11/2003	03/11/2003	03/13/2003	2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: SITUS, INC. **Exec Dt:** 03/06/2003

Assignee: HOFFMAN RESOURCES LLC
115 BROAD STREET 6TH FL.
BOSTON, MASSACHUSETTS 02110

Correspondent: WOLF, GREENFIELD & SACKS, P.C.
LAWRENCE M. GREEN
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210

Search Results as of: 12/19/2007 09:36 PM

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Web interface last modified: February 22, 2007 v.2.0

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WILLIAM MAURICE JAMIESON
2 FOX POINT
TORONTO ON M6M 3-82 CA CANADA

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
William Maurice Jamieson :
Application No. 10/628,100 : ON PETITION
Filed: July 28, 2003 :
Title of Invention: **SNAP TRACK DECORATIVE MOLDINGS** :

This is a decision on the correspondence filed June 1, 2006 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

This application became abandoned December 13, 2005 for failure to file a timely and proper response to the non-Final Office Action mailed September 12, 2005. Accordingly, a Notice of Abandonment was mailed April 28, 2006.

Petitioner contends that a response to the September 12, 2005 non-Final Office Action was timely filed on December 7, 2005 by facsimile transmission. Copies of the purported response have been provided as well as an Auto-Reply Facsimile Transmission received on December 7, 2005. However, while a copy of an acknowledgment by the U.S. Patent and Trademark Office of an Auto-Reply Facsimile Transmission received on December 7, 2005 has been provided, the purported response does not include a certificate of facsimile transmission pursuant to 37 CFR 1.8[1].

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the non-Final Office Action mailed September 12, 2005 and since the proof submitted does not substantiate a finding that the response was received the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

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[1] 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner may wish to filed a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) 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 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) ($675.00);

(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).

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM MAURICE JAMIESON
2 FOX POINT
TORONTO ON M6M 3-82 CA CANADA

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OFFICE OF PETITIONS

In re Application of
William Maurice Jamieson
Application No. 10/628,100
Filed: July 28, 2003
Title of Invention: **SNAP TRACK DECORATIVE MOLDINGS**

ON PETITION

This is a decision on the petition filed October 24, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 13, 2005 for failure to file a timely and proper response to the non-Final Office Action mailed September 12, 2005. Accordingly, a Notice of Abandonment was mailed April 28, 2006.

This matter is being referred to Technology Center 3635 for appropriate action on the amendment filed October 24, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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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Reese Taylor, Esq.
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor
First National Tower
Akron OH 44308-1456

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NOV 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Richard C. Sayers	:	
Application No. 10/628,126	:	NOTICE
Filed: July 28, 2003	:	
Attorney Docket No. 02099		

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 (571) 272-3201.

This file is being forwarded 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICES OF DAVID L. HOFFMAN
28494 WESTINGHOUSE PLACE
SUITE 204
VALENCIA CA 91355

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AUG 1 8 2008

In re Application of :
Ignatius Xavier Haase :
Application No. 10/628,142 : ON PETITION
Filed: July 25, 2003 :
Attorney Docket No. 02-10635 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 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 1, 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 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) was obtained. Accordingly, the date of abandonment of this application is August 2, 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 $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2176 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
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BACHMAN & LAPOINTE PC
900 CHAPEL STREET
SUITE 120
NEW HAVEN, CT 06510

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of :
Benjamin R. Harding et al :
Application No. 10/628,154 : DECISION GRANTING PETITION
Filed: July 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. EH-10855 (03-171) :

This is a decision on the petition, filed August 21, 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 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 3745 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\Aug9\628154.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). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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

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OFFICE OF PETITIONS

In re Application of
Stephen John Fedigan
Application No. 10/628,159
Filed: July 28, 2003
Attorney Docket No.: **TI-34824**

ON PETITION

This is a decision on the petition filed November 20, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 23, 2007. 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 July 24, 2007. Accordingly, a Notice of Abandonment was mailed November 1, 2007.

This matter is being referred to Technology Center 2615 for appropriate action on the amendment filed November 20, 2007.

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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[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). ~~g~~rantable petition filed under the provisions of 37 CFR 1.137(b)must be accompanied by:

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

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

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

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

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Paper No.

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019-6018

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of :
Harald Streicher, Frank Wenzl and :
Peter Ostermeier :
Application No. 10/628,169 :
Filed: July 28, 2003 :
Attorney Docket No. DT-6582 :
Title: RINSING LIQUID TREATMENT :
DEVICE :

DECISION REFUSING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "PETITION UNDER RULE 37 C.F.R. § 1.47(a), filed March 17, 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 C.F.R. § 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 C.F.R. § 1.136(a).

The above-identified application was filed on July 28, 2003, with an unexecuted declaration. Harald Streicher, Frank Wenzl and Peter Ostermeier were named as joint inventors. Accordingly, on October 27, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee, and late surcharge. To make this reply timely, the petition included a petition (and fee) for extension of time for response within the third month. On petition, applicants assert that status under § 1.47(a) is proper because inventor Wenzl "was unavailable for signing the Declaration when the application papers were prepared for signing, and still cannot be reached." The petition does not include a statement of facts from someone with first hand knowledge setting forth the efforts made to reach or locate inventor Wenzl.

A grantable petition under 37 C.F.R. § 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. The instant petition does not satisfy requirement (1).

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. See MPEP 409.03.

The petition does not include proof of the inventor's unavailability. Petitioner merely states that the inventor is unavailable. Petitioner has not submitted a statement of facts describing the exact facts which are relied on to establish that a diligent effort was made to reach inventor Wenzl. The circumstances of inventor Wenzl's unavailability are left unspecified. Accordingly, it is concluded that petitioner has not satisfied the requirement of § 1.47(a).

It is further noted that to be acceptable under § 1.47(a) a declaration must be executed by the signing joint inventors on behalf of themselves and on behalf of the nonsigning joint inventor. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.
>
> (Emphasis added).

The petition appears to include a declaration executed by inventors Streicher and Ostermeier on behalf of themselves and on behalf of inventor Wenzl. However, on petition, it is also indicated that a declaration executed by Ronald Wildi on behalf of the assignee has been submitted. No such declaration appears to be of record in this case. Any event such a declaration would

be inappropriate under § 1.47(a).

On renewed petition, rule 1.47(a) applicants need to submit adequate proof of the unavailability of inventor Wenzl and verify that the declaration submitted March 17, 2004 is being submitted by the signing inventors on behalf of themselves and the nonsigning inventor.

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

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.

DAVID TOREN, ESQ.
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787 SEVENTH AVENUE
NEW YORK, NY 10019-6018

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OFFICE OF PETITIONS

In re Application of
Harald Streicher, Frank Wenzl and
Peter Ostermeier
Application No. 10/628,169
Filed: July 28, 2003
Attorney Docket No. DT-6582
Title: RINSING LIQUID TREATMENT DEVICE

DECISION NOTING JOINDER AND PETITION UNDER 37 C.F.R. § 1.47(a) DISMISSED AS MOOT

This is in response to the "RENEWED PETITION PURSUANT TO RULE 1.47(a)," filed July 16, 2004.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on July 28, 2003, with an unexecuted declaration. In response to the Notice to File Missing Parts of Application mailed October 27, 2003, applicants filed the initial petition under § 1.47(a) to accept a declaration without the signature of inventor Wenzl. However, the petition was dismissed for failure to submit adequate proof of the unavailability of inventor Wenzl to join in the application (Decision mailed May 14, 2004).

On instant request for reconsideration, applicants timely replied filing a declaration executed by all of the joint inventors, including previously non-signing inventor Wenzl. This declaration has been reviewed and found in compliance with 37 CFR 1.63.

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).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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AVAGO TECHNOLOGIES, INC.
P.O. BOX 1920
DENVER, CO 90201-1920

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Annette C. Grot et al :
Application No. 10/628,171 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 10004269-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed January 20, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 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 the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional 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.

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.

This matter is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: MICHAEL A. GOODWIN
1999 BROADWAY, SUITE 2225
DENVER, CO 80202

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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

Applicant	: Charles J. Thomas	: DECISION ON REQUEST FOR
Patent Number	: 7664946	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/628,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 05/17/2010

Applicant : Charles J. Thomas
Patent Number : 7664946
Issue Date : 02/16/2010
Application No: 10/628,173
Filed : 07/28/2003

: 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 **1333** 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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SUMMA & ALLAN, P.A.
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE NC 28277

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MAR 2 9 2005

OFFICE OF PETITIONS

Applicant: Malta et al.
Appl. No.: 10/628,189
Filing Date: July 28, 2003
Title: GROWTH OF ULTRA-HIGH PURITY SILICON CARBIDE CRYSTALS IN AN AMBIENT CONTAINING HYDROGEN
Attorney Docket No.: 5000.301
Pub. No.: US 2005/0022724 A1
Pub. Date: February 3, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on February 25, 2005, 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

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KING & SPALDING LLP (CITI CUSTOMER NUMBER)
ATTN: GEORGE T. MARCOU
1700 PENNSYLVANIA AVENUE, NW
SUITE 200
WASHINGTON, DC 20006

Mail Date: 07/13/2010

Applicant	: William Ortner	: DECISION ON REQUEST FOR
Patent Number	: 7644025	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/628,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: 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.

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J. Paul Plummer
ExxonMobil Upstream Research Company
P. O. Box 2189
Houston, TX 77252-2189

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OFFICE OF PETITIONS

In re Application of :
Lonnes et al. :
Application No. 10/628,214 :
Filed: July 28, 2003 :
Attorney Docket No. 2001.079 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed November 9, 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 non-final Office action, mailed April 13, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 14, 2005. A Notice of Abandonment was mailed on November 1, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the April 13, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

Applicant files a five (5) month extension-of-time request and fee with the instant petition; however, the maximum extendable period available to respond the Notice under 37 CFR 1.136 is three (3) months, or until October 13, 2005. After October 13, 2005, no extensions-of-time were available as the application became abandoned on July 14, 2005, the day after the shortened statutory reply period set forth in the Office action expired. Thereafter, a petition to revive the application is the appropriate course of action.

A refund of the extension of time fee has been credited to deposit account 05-1328 as authorized in the instant petition.

This application is being forwarded to Technology Center Art Unit 3672 for processing of the Amendment, filed with the petition on November 9, 2005, in due course.

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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MATTINGLY, STANGER & MALUR, P.C.
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1800 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Yagyu et al.	:	
Application No. 10/628,234	:	ON PETITION
Filed: July 29, 2003	:	
Attorney Docket No. H&A-120	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 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 continuing application; (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.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/240,455.

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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Koji Moriya, et al. :
Application No. 10/628,239 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No.: 740756-2638 :
:

This is a decision on the petition, filed September 14, 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 August 12, 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 2818 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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS, CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of :
Gwo-Shiang LEE et al. :
Application No. 10/628,271 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. BHT-3111-349 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 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-compliant notice mailed, September 09, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2005.

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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost three and one-half years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 11, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Bruce Troxell (Troxell) was the party having the right to reply at the date of abandonment, Troxell should explain why this application became abandoned while it was under his control and what efforts Troxell made to further reply and with whom this matter was discussed. When did Troxell, Gwo-Shiang Lee (Lee), Sung-Tao Lin (Lin), Shih-Ping Lee (Lee), Ming-Wei Chang (Chang), Han-Jou Li (Li), Ming-Hsiu Hsu (Hsu) and Chin-Chung Nien (Nien) become aware of the abandonment of this application? Additionally, Troxell, Lee, Lin, Lee, Chang, Li, Hsu and Nien must explain the circumstances surrounding the discovery of the abandonment of this application almost two (2) and one-half years after the mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Lee, Lin, Lee, Chang, Li, Hsu and Nien and whoever else was involved with this application at the time of abandonment. Statements are required

from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted i1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost two (2) and one-half years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may 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 undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of :
Gwo-Shiang LEE et al. :
Application No. 10/628,271 : DECISION ON PETITION
Filed: July 07, 2003 :
Attorney Docket No. 21225-66335 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-compliant notice mailed, September 09, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-compliant notice of September 09, 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 2856 for appropriate action on the concurrently filed amendment.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
Suite 1800
1300 North Seventeenth Street
Arlington, VA 22209

In re U.S. Patent Application of	:	
Hiroshi KAWAZOE	:	DECISION ON REQUEST TO
Application No. 10/628274	:	PARTICIPATE IN PATENT
Filed: July, 29, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. 523.42982X00	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 25, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kathryn Gorgos
TC 1700
TQAS

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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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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OFFICE OF PETITIONS

In re Application of :

Michael F. Shapiro :
Application No. 10/628,282 : DECISION ON PETITION
Filed: July 25, 2003 : TO WITHDRAW
Attorney Docket No. 089477.00002 : 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 17, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Jason L. Hornkohl**
P.O. Box 210584
Nashville, TN 37221

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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RICHARD C. PEET
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Vallee et al.	:	DECISION ON PETITION
Application No. 10/628,290	:	TO WITHDRAW
Filed: July 29, 2003	:	FROM RECORD
Attorney Docket No. SLC-109-US	:	

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 5, 2005.

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

A review of the file record indicates that on January 18, 2006 the power of attorney to Foley and Lardner LLP was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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: Paul, Hastings, Janofsky & Walker LLP
875 15th Street, NW
Washington DC 20005

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

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :
Janice Hansen et al. :
Application No. 10/628,315 : DECISION ON PETITION
Filed: July 28, 2003 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: 79209 :
Title: ADJUSTABLE AREOLA AND :
NIPPLE PROSETHESIS :

This is a decision on the petition filed on August 8, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 15, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 16, 2004. A notice of abandonment was mailed on July 14, 2005.

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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.

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 instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant 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 instant petition.

With the present petition, Petitioner has submitted the petition fee, the search fee, the Examination fee, the filing fee, the fees associated with the filing of excess claims, the fee associated with the late submission of an oath or declaration, a substitute specification, replacement drawings, and an executed declaration. Petitioner has further included a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED.**

The Office of Initial Patent Examination will be notified of this decision, so that the present application can receive further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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

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

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Satoshi Miura, et al.
Application No. 10/628,330
Filed: July 29, 2003
Attorney Docket No.: 03131

ON PETITION

This is a decision on the petition, filed November 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Malcolm J. MacDonald 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.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3745 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/11/2010

Applicant	: Sen-Chia Chang	: DECISION ON REQUEST FOR
Patent Number	: 7617101	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/628,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: 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
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Alexandria, VA 22313-1450
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ANTONELLI TERRY STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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OFFICE OF PETITIONS

In re Application of :
Mitsuru Goto et al :
Application No. 10/628,362 : DECISION GRANTING PETITION
Filed: July 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501.42940X00 :

This is a decision on the petition, filed July 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 June 13, 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 2629 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of :
VALLEE et al. :
Application No. 10/628,403 : DECISION ON PETITION
Filed: July 29, 2003 : TO WITHDRAW
Attorney Docket No. 040699-0156 : 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 5, 2005.

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

A review of the file record indicates that the power of attorney to Richard C. Peet and those practitioners associated with Customer Number 22428 has been revoked by the applicants of the patent application on January 18, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: LAWRENCE J. GOTTS
PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 TYSONS BLVD
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/628,420	:	ON APPLICATION FOR
Filed: July 29, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 006943.00310	:	
Title: METHOD TO IMPROVE	:	
THE STABILITY OF LEMON/LIME	:	
FLAVORED BEVERAGES	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(b)," filed June 16, 2009. Applicant requests that the determination of patent term adjustment be increased by two hundred and thirty-five (235) days to six hundred and seventy-five (675) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

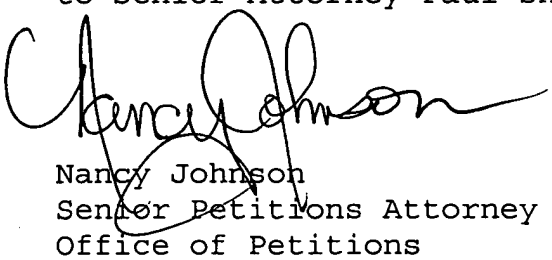
---

[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.

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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Paper No.

BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO IL 60606

MAILED

MAR 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,572,471	:	DECISION ON REQUEST
Lee et al.	:	FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Application No. 10/628,420	:	PATENT TERM ADJUSTMENT
Filed: July 29, 2003	:	and
Atty Docket No. 006943.00310	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and seventy-five (675) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred and seventy-four (674) 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 July 30, 2006 and ends on March 20, 2007, the day before the first RCE was filed, which amounts to 234 (not 235) days. See U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 674, not 675 days.

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

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Petitioner's Deposit Account, as authorized. 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 **six hundred and seventy-four (674) 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 : 7,572,471 B2

DATED : **August 11, 2009** **DRAFT**

INVENTOR(S) : Lee 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 440 days

Delete the phrase "by 440 days" and insert – by 674 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Thomas Lee	: DECISION ON REQUEST FOR
Patent Number	: 7572471	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/628,420	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **908** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP/WYETH
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

COPY MAILED

AUG 25 2006

OFFICE OF PETITIONS

In re Application of Corcoran, et al. :
Application No. 10/628,432 : Decision on Application
Filing Date: July 29, 2003 : For Patent Term Adjustment
Attorney Docket No. WYE-007 :
For: MODIFIED ADAMTS4 MOLECULES AND METHOD OF USE THEREOF

This is a decision in response to "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) AND CFR 1.705(b)," filed May 24, 2006. The paper requests correction of the patent term adjustment from two hundred fifty-three (253) days to three hundred fifty-nine (359) 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 as three hundred fifty-nine (359) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 24, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 253 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment. Applicants submit the relevant dates as specified in 1.703(a) through (e) for which an adjustment is sought and requests that the patent term adjustment be corrected to 359 days. Applicants state that the patent issuing from the application is not subject to a terminal disclaimer. Applicants assert that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

[1] PALM Records indicate that the Issue Fee payment was received on May 24, 2006.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 253 days is incorrect.

Applicants dispute the reduction of 106 days of PTA for applicants delay in filing a supplemental response on January 31, 2006. Applicants state that the response was filed at the request of the examiner and, therefore, no reduction is warranted.

Applicants' argument is well-taken. A Restriction Requirement was mailed on September 15, 2005. The record supports a conclusion that after applicants timely filed an election on October 17, 2005, Examiner Moore requested that applicants file a supplemental reply. (Notice of Allowability and Interview Summary, both mailed February 24, 2006.) Therefore, the January 31, 2006 supplemental reply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred fifty-nine (359) days.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

PTA Calculations for Application: 10/628432			
Application Filing Date:	07/29/2003	PTO Delay (PTO):	359
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	106
Post-Issue Petitions:	0	Total PTA (days):	359
PTO Delay Adjustment:	106		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	07/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	106		
49	02/24/2006	MAIL NOTICE OF ALLOWANCE	7		34
48	02/06/2006	ISSUE REVISION COMPLETED			
47	02/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	02/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
45	02/06/2006	NOTICE OF ALLOWABILITY			
44	02/05/2006	DATE FORWARDED TO EXAMINER			
43	01/31/2006	SUPPLEMENTAL RESPONSE		106	34
42	12/29/2005	CORRESPONDENCE ADDRESS CHANGE			
41	12/29/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
40	08/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	07/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	03/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	05/18/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	04/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	10/25/2005	DATE FORWARDED TO EXAMINER			
34	10/17/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
33	09/16/2005	MAIL RESTRICTION REQUIREMENT	352		-1
32	09/15/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
31	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

30	07/05/2005	REFERENCE CAPTURE ON IDS			
29	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	03/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26	03/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	03/16/2004	REFERENCE CAPTURE ON IDS			
24	03/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	04/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/13/2004	APPLICATION RETURN FROM OIPE			
20	04/13/2004	APPLICATION RETURN TO OIPE			
19	04/13/2004	APPLICATION RETURN FROM OIPE			
18	04/13/2004	APPLICATION IS NOW COMPLETE			
17	04/13/2004	APPLICATION RETURN TO OIPE			
16	04/09/2004	APPLICATION DISPATCHED FROM OIPE			
15	04/12/2004	APPLICATION IS NOW COMPLETE			
14	03/16/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
13	03/16/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	04/09/2004	CORRESPONDENCE ADDRESS CHANGE			
11	04/05/2004	CASE CLASSIFIED BY L&R			
10	12/16/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	10/14/2003	CASE CLASSIFIED BY L&R			
5	10/14/2003	CLEARED BY OIPE CSR			
4	09/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	08/15/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	07/29/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/29/2003	INITIAL EXAM TEAM NN			

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

AUG 2 3 2005

Technology Center 2100

In re Application of:
KAWAMURA et al.
Application No. 10/628,467
Filed: July 29, 2003
For: DATABASE PROCESSING METHOD AND SYSTEM USING LOG INFORMATION, PROCESSING PROGRAM THEREOF AND STORAGE UNIT FOR EXECUTION THEREOF

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on June 22, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

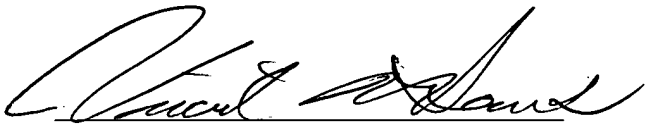
M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> 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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of June 22, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



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

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JUL 12 2004

MARY ANNE SCHOFIELD
FULBRIGHT & JAWORSKI L.L.P.
801 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

In re Application of	:
Joseph Artiss et al	:
Serial No.: 10/628,475	: PETITION TO MAKE SPECIAL
Filed: July 29, 2003	:
Attorney Docket No.: AJC 201.1	:

This is in response to applicants' petition filed December 24, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

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

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)
6916589	2005-07-12	10628491	2003-07-29	181.001

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	/Mitchell A. Smolow/	Date (YYYY-MM-DD)	2009-10-16
Name	Mitchell A. Smolow	Registration Number	43140

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
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In re Patent No. 6916589
Issue Date: July 12,2005
Application No. 10628491
Filed: July 29,2003
Attorney Docket No. 0175-0348P

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

This is a decision on the electronic petition, filed October 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 October 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

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AUG 27 2007

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Cheung, et al. : DECISION ON PETITION
Application No. 10/628,503 :
Filed: July 28, 2003 :
Docket No.: P/4076-55 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 7, 2006 for failure to timely reply to the Notice of Defective Brief (Notice) mailed September 6, 2006. The Notice set a one month shortened statutory period of time for reply. A one month extension of time was procured, however, the reply submitted therewith was deemed defective, as indicated in the Notice of Abandonment mailed July 28, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 2800 for further processing.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Kitsuregawa, et al.
Application No. 10/628,516
Filed: July 29, 2003
For: DISASTER RECOVERY PROCESSING METHOD AND APPARATUS AND STORAGE UNIT FOR THE SAME

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

This is a response to the petition filed 07 March 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

Applicants' submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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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OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY, THREE O-I PLAZA
PERRYSBURG OH 43551-2999

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Keung : DECISION ON PETITION
Application No. 10/628,521 :
Filed: July 28, 2003 :
Atty. Dkt. No.: 17853 USA :

The above-identified application has been forwarded to the Office of Petitions for consideration of the "PETITION TO ENTER PREVIOUSLY SUBMITTED AMENDMENT OR, IN THE ALTERNATIVE, TO REVIVE UNAVOIDABLY ABANDONED PATENT APPLICATION," filed March 29, 2007. This matter is being treated under 37 CFR 1.137(a) as a petition to revive an unavoidably abandoned application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned November 28, 2006 for failure to timely submit a proper reply to the Office communication mailed October 27, 2006. The Office communication set a one month period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement (3) set forth above.

Petitioner has failed to present a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

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

Petitioner attributes the nature of the delay in timely responding to the Office communication to non-receipt of the Office communication.

In the absence of any irregularity in the mailing of an 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. *See*, MPEP 711.03(c).

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Petitioner asserts that the Office communication was not received by the assignee. Petitioner further references a file search undertaken by assignee. Petitioner also references a "computer system" maintained by assignee.

The petition lacks statements from anyone with firsthand knowledge of the search of the files. Moreover, no docket report from the "computer system" referenced by petitioner has been provided.

Given the lack of details concerning the docketing system maintained by assignee, the lack of supporting documentation concerning the "computer system," and the failure to submit any statements from anyone with firsthand knowledge of the docketing system, it cannot be found that the failure to timely respond to the Office communication was unavoidable.

Any renewed petition must establish that the entire period of time, from the time a reply was due until the filing of a grantable petition, was unavoidable.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's 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 petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It is not apparent whether the person signing the petition was in a position to have firsthand or direct knowledge of the facts and circumstances alleged therein as there is no indication that practitioner has been empowered to represent the instant application. Moreover, the correspondence address indicated in the instant petition differs from that currently of record. If practitioner desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. **Please be advised that all future correspondence will be directed 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 Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 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

CC: ROBERT C. COLLINS
REISING, ETHINGTON, BARNES,KISSELLE,LEARMAN, ET AL
P.O. BOX 4390
TROY, MI 48099

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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SEP 17 2007

OFFICE OF PETITIONS

OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY, THREE O-I PLAZA
PERRYSBURG OH 43551-2999

In re Application of :
Keung : DECISION ON PETITION
Application No. 10/628,521 :
Filed: July 28, 2003 :
Atty. Dkt. No.: 17853 USA :

This decision is in response to the petition renewed under 37 CFR 1.137(b) filed July 18, 2007.

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

This application became abandoned November 28, 2006 for failure to timely submit a proper reply to the Office communication mailed October 27, 2006. The Office communication set a one month period of time for reply. Notice of Abandonment was mailed July 2, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may 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 : January 9, 2007

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/628533 patent No.: 7,122,263

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.

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

Comments: SAME AS REQUESTED ON 7/29/03. SHEETS 4+5 ARE PART OF "REM" ENTRY.

SPE

1745
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
www.uspto.gov

KAZUTORA YOSHINO
7227 DIVINITY LANE
EDEN PRAIRIE, MN 55346

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Kazutora Yoshino et al :
Application No. 10/628,541 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. Y14A001 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, 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)[1] must be accompanied by: (1) the required reply,[2] 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(c). Where there is a question as to whether either

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

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), and (2).

The required reply and the petition fee of $750 for small entity status were not submitted. Additionally, applicant should note 37 CFR §1.33(2)(b)(4) where all inventors is required to sign amendments and other papers.

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 Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 29 2006

OFFICE OF PETITIONS

KAZUTORA YOSHINO
550-11 SHIMOFUJISAWA
IRUMA 358 JP JAPAN

In re Application of :
Kazutora Yoshino et al :
Application No. 10/628,541 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. Y14A001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 31, 2005, 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** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] 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(c). 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 lack(s) item(s) 1.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

Applicants have still not submitted the reply required to the restriction requirement mailed March 16, 2004, which required an election be made as to Group I, Claims 1-16, or Group II, Claims 17-22. Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted. Accordingly, applicants must elect to prosecute the claims in Group I or the claims in Group II. If applicants elect to prosecute the claims in Group I, the reply should so indicate such an election. If applicants elect to prosecute the claims in Group II, the reply should so indicate such an election. ***See MPEP 809.02(a) ¶ 8.01 and 809.03.***

Applicant should be aware that while an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent. ***See also MPEP 401 ¶ 4.10.***

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 Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KAZUTORA YOSHINO
7227 DIVINITY LANE
EDEN PRAIRIE, MN 55346

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of
Kazutora Yoshino et al
Application No. 10/628,541
Filed: July 28, 2003
Attorney Docket No. Y14A001

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 8, 2006 and supplemented on November 9, 2006, 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** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] 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(c). 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 lack(s) item(s) (1) and (3).

As to item (1), the election submitted on November 8, 2006 is improper because the election states that "Group I, the claims 1-16, may be elected." **An election must state: I elect, and whatever the groupings are.**

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

As to item (2), applicant is again reminded that **all** papers being submitted must be signed by **both** inventors. See 37 CFR 1.33(2)(b)(4).

The petitions to revive in this application have been dismissed twice. Petitioner's continued failure to provide the proper items required to revive this application may 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 Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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NOV 19 2004

Technology Center 2100

BUCHANAN INGERSOLL PC
1835 MARKET STREET, 14TH FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-2985

In re Application of: Richards, et al.
Application No. 10/628,547
Filed: July 28, 2003
For: PRODUCT CLASSIFICATION SYSTEM AND METHOD FOR RETAIL SALES

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed August 9, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in 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. **Applicant may wish to consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of all the references cited in the petition by the assigned examiner.**

4/18/04

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

MBS

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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Karsten Schulz	: DECISION ON REQUEST FOR
Patent Number	: 7653562	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/628,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1394** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

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APR 26 2004

OFFICE OF PETITIONS

In re Application of
Drogue et al.
Application No.10/628,588
Filed: July 28, 2003
Attorney Docket Number: 6970.02
Title of Invention: FLUID AND BIOAEROSOL MANAGEMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed February 23, 2004 (certificate of mailing February 18, 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 address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. 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 July 28, 2003, without a signed oath or declaration and naming Jeffrey Drogue, Leonard Schultz and Barry Thompson as joint inventors.

Accordingly, on October 27, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring for the purposes of this decision, an executed oath or declaration and a $65.00 surcharge for its late filing.

In response, on February 23, 2004, applicant submitted a petition, the $65.00 surcharge for late filing oath or declaration fee, and a partially executed declaration naming, Jeffrey Drogue, Leonard Schultz and Barry Thompson as joint inventors.

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 set forth above.

As to item (1), rule 47 applicant has failed to show that co-inventor Drogue was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition and the copy of the e-mail provided states only assignment and power of attorney documents were sent to the non-signing inventor. Inventor Drogue must be presented with the opportunity to sign the

application papers before rule 47 status will be granted. If rule 47 applicant mailed the application papers (specification, including claims, drawings, and oath or declaration) than such a statement and any evidence should be provided.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. 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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David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

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AUG 16 2004

OFFICE OF PETITIONS

In re Application of
Drogue et al.
Application No.10/628,588
Filed: July 28, 2003
Attorney Docket Number: 6970.02
Title of Invention: FLUID AND BIOAEROSOL MANAGEMENT

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a), filed June 25, 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 address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. 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 July 28, 2003, without a signed oath or declaration and naming Jeffrey Drogue, Leonard Schultz and Barry Thompson as joint inventors.

Accordingly, on October 27, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring for the purposes of this decision, an executed oath or declaration and a $65.00 surcharge for its late filing.

In response, on February 23, 2004, applicant submitted a petition, the $65.00 surcharge for late filing oath or declaration fee, and a partially executed declaration naming, Jeffrey Drogue, Leonard Schultz and Barry Thompson as joint inventors. A petition filed under 37 CFR 1.47 was dismissed on April 26, 2004.

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 set forth above.

As to item (1), rule 47 applicant has failed to show that co-inventor Drogue was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition and the copy of the e-mail

provided states only assignment and power of attorney documents were sent to the non-signing inventor. Unless inventor Drogue was presented with a copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which he was given. The fact that inventor Drogue reviewed the provisional application does not mean applicant is not required to present the entire non-provisional application for inventor Drogue's review. Inventor Drogue must be presented with the opportunity to review and sign the application papers before rule 47 status will be granted. Petitioner's arguments that Drogue was appraised of the application and understood the invention are not persuasive.

The $130.00 petition fee is being returned to deposit account 04-1420 as an additional fee is not required where petitioner timely submitted a request for reconsideration.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251 until September 24, 2004, thereafter (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey Drogue, Leonard Schultz and Barry Thompson
Application No.10/628,588
Filed: July 28, 2003
Attorney Docket No. 6970.02
Title of Invention: Fluid and Bioaerosol Management

: DECISION

This is in response to the renewed petition under 37 CFR 1.47(a) filed February 9, 2005.

Petitioner has shown that non-signing inventor Drogue has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to the non-signing inventor's last known address. Petitioner has sufficiently established that non-signing refuses to execute the application papers.

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 forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jeffrey K. Drogue
5117 Washburn Avenue South
Minneapolis, Minnesota 55410

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey Drogue, Leonard Schultz and Barry Thompson
Application No.10/628,588
Filed: July 28, 2003
Attorney Docket No. 6970.02
Title of Invention: Fluid and Bioaerosol Management

LETTER

Dear Mr. Drogue:

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 C.F.R. § 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 as per 37 C.F.R. § 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, the attorney 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 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).

Charlema R. Grant
Petitions Attorney
Office of Petitions

David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NIELDS & LEMACK
176 EAST MAIN STREET, SUITE 7
WESTBORO, MA 01581

In re Application of :
Josef Dirr :
Application No. 10/628,596 : DECISION ON PETITION
Filed: July 16, 2002 : TO MAKE SPECIAL
For: PROCESS FOR THE TRANSMISSION OF :
ANALOG AND DIGITAL INFORMATION :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed December 2, 2004 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 statement by Josef Dirr that he 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.

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

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CUMMINS, INC.
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of
Manring, et al.
Application No. 10/628,606
Filed: July 28, 2003
Attorney Docket No. 29766-69968

DECISION ON PETITION

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed July 12, 2006, 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 May 15, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 13, 2006. Accordingly, the date of abandonment of this application is May 16, 2006. A Notice of Abandonment was mailed on June 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 payment of the issue fee of $1,400.00 and the publication fee of $300.00 (2) the petition fee of $1,500.00; 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.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JEFFREY A. MICHAEL
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204-3335

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

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FROM DIRECTORS OFFICE
OCT 05 2004
TECHNOLOGY CENTER 3600

Fred Zollinger III
P.O. Box 2368
North Canton, OH 44720

In re application of
Darryl Snyder et al.
Application No. 10/628,615 : DECISION ON REQUEST
Filed: July 28, 2003 : FOR WITHDRAWAL OF
For: SUPPORT FRAME FOR DUCT : ATTORNEY

This is a decision on the request filed on August 20, 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).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 09/28/04

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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AUG 2 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,418,672 : DECISION GRANTING PETITION
Issue Date: August 26, 2008 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/628,640 : REQUEST FOR CERTIFICATE OF
Filed: July 28, 2003 : CORRECTION
Attorney Docket No. 200303370-3 :

This is a decision on the petition, filed July 2, 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 nonprovisional Application No. 08/726,648, filed October 7, 1996, by way of a Certificate of Correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed July 28, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner has submitted both the $1,410.00 petition fee and the $100.00 Certificate of Correction fee via credit card payment.

A Corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a Certificate of Correction.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This application is being referred to the Certificates of Correction Branch for processing the request for a Certificate of Correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/628,640	07/28/2003	2179	1284	200303370-3	33	3

CONFIRMATION NO. 4896

CORRECTED FILING RECEIPT

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

Date Mailed: 08/06/2009

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

Applicant(s)

John P. Stautner, The Woodlands, TX;
Richard J. Lawson, Dakota Dunes, SD;
Brian V. Belmont, Dallas, TX;

Power of Attorney:
N Merrett--27250
Barry Blount--35069
Tait Swanson--48226

Domestic Priority data as claimed by applicant

This application is a CON of 09/742,602 12/21/2000 PAT 6,600,503
which is a CON of 08/726,648 10/07/1996 PAT 6,172,677

Foreign Applications

If Required, Foreign Filing License Granted: 10/22/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/628,640**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTEGRATED CONTENT GUIDE FOR INTERACTIVE SELECTION OF CONTENT AND SERVICES ON PERSONAL COMPUTER SYSTEMS WITH MULTIPLE SOURCES AND MULTIPLE MEDIA PRESENTATION

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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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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AUG 30 2006

KEOWN & ASSOCIATES
500 WEST CUMMINGS PARK
SUITE 1200
WOBURN, MA 01801

In re Application of	:
Jeffrey M. Besterman et al	:
Serial No.: 10/628,649	: PETITION DECISION
Filed: July 28, 2003	:
Attorney Docket No.: MET-011DIV	:

This is in response to the petition under 37 CFR 1.144, filed May 15, 2006, 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 on July 28, 2003, and contained claims 1-50. In a first Office action, mailed August 31, 2005, the examiner set forth a restriction requirement, as follows:

Group I – Claims 1-4, 8-10, 12-15, 19-21 and 23-24, drawn to the compounds of formula I where Y or Z do not represent a heterocyclic or heteroaryl radical and X is a benzothiophene;

Group II – Claims 1-4, 8-10, 12-15, 19-21 and 23-24, drawn to the compounds not encompassed in Group I;

Group III – Claims 5-7, 11, 16-18 and 22-24, drawn to compounds of formula II where X does not represent a fused heterocyclic ring;

Group IV – Claims 5-7, 11, 16-18 and 22-24, drawn to compounds of formula II not encompassed by Group III;

Group V – Claims 25-28 and 32-37, drawn to methods of use of formula I (inhibiting lactamase activity);

Group VI– Claims 29-31 and 36-37, drawn to methods of use of formula II (inhibiting lactamase activity);

Group VII – Claims 38-41, 45-47 and 49-50, drawn to methods of use of formula I (inhibiting bacterial growth); and

Group VIII – claims 42-44 and 48-50, drawn to methods of use of formula II (inhibiting bacterial growth).

An election of species was also required for whichever group was elected. Each Group was also indicated as subject to further restriction if elected.

The examiner reasoned that the compounds in the Markush group lacked a substantial structural element in common and lacked a common utility and could be divided based upon *In re Harnish* and *Ex parte Hozumi.* The examiner also set forth appropriate reasoning for separating methods from compounds and advised of possible rejoinder.

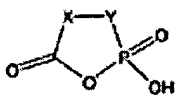
Applicants replied on November 1, 2005, canceling claims 1-4, 8-15, 19-21 and 25-50, and electing the compounds of Group III with traverse and a species , as required. Applicants argued that that there would be no undue burden to search all of the claims in the case and requested rejoinder of Groups IV, VI and VIII with elected Group III.

The examiner mailed a new Office action to applicants on January 17, 2006, acknowledging the election of Group III and the species, but maintaining the requirement, and making it Final. The examiner argued against rejoinder of the compound claims based on the value of X, as elected, being a triazole or indazole moiety as opposed to an azepine, thiophene or furanyl moiety in that they formed significantly different core structures and have different functions. The requirement was then made Final. The examiner then rejected claims 6-7 and 23-24 under 35 U.S.C. 112, second paragraph, as indefinite; and under 35 U.S.C. 112, first paragraph, as lacking enablement. Claims 16-18 and 22-24 were also rejected for obvious double patenting over US 6,608,046. All claims were objected to as containing non-elected subject matter.

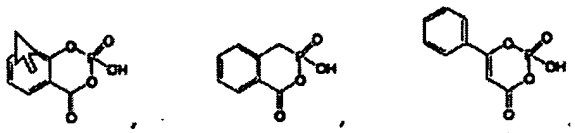
This petition was filed on May 15, 2006, traversing the requirement as improper. A reply to the Office action was also filed in which claims 51-61 were added and the rejections argued or otherwise addressed.

DISCUSSION

A review of the claims of Group III, as filed, shows that they are directed to compounds based on the following structure:



As can be seen formula II appears to be a five member ring with variables X and Y. Y is defined as O or alkylene and X is defined as alkylene, cycloalkylene, fused heterocycle, heteroalkylene or arylene, any of which may be substituted. In essence, X expands the five member ring to six members to which may be fused another ring, as shown by the structures of claim 22:



Applicants traverse the restriction requirement, in part, based on actions of an examiner in a related case with similar claims, stating that a larger group of claims was examined without the question of undue burden being raised. In view thereof, applicants request that Groups II-IV, VI and VIII be examined together. It is noted, however, that all of the claims in Groups II, VI and VIII have been canceled. Applicants also admit that claims of Groups II and IV in the related application overlap with the claims in Group III of this application. Applicants request that claims 29-31, 36-37, 42-44 and 48-50 (Groups VI and VIII) be examined in this application. Since these claims have been canceled, such request is improper absent their reinstatement. Further, these claims are method claims which the examiner had indicated would be subject to rejoinder upon indication of allowability of the compound claims. As the compound claims have not yet been indicated allowable, rejoinder for examination purposes is not required at this time.

Applicants make little argument for rejoining Groups III and IV, both directed to compound claims, but of differing scope. Applicants do state that the same 50 claims were presented in a companion application, but were divided into only four groups by a different examiner without an election of species being required. Restriction of claims in an application to a single invention is a tool an examiner may use in order to effectively examine an application. While consistency in making such requirements is desirable, the fact that one examiner makes a requirement that varies from that of a second examiner on the same or similar claims depends on the perception, understanding, experience and other factors peculiar to each examiner. Obviously, restriction was appropriate in each of the two applications filed by applicants, evidencing general consistency in examination. That the details differ is of minor significance, especially in view of potential rejoinder of compound and method claims. What is of greater significance is applicants attempt to prosecute the same claims in two different applications. Further, election of species is another tool an examiner can employ to have applicants assist in directing the examiner to focus on the most important species claimed within a Markush group.

On the other hand, the examiner's statements at the end of almost every Group setting forth that the Group may be subject to further restriction is inappropriate. Each Group set forth should encompass all that is appropriate for that Group. Further to set forth two different Groups based on the same claims without specifying what the difference between the Groups is – e.g. different structures – is also inappropriate. Here the examiner has based Groups III and IV on the same claims, defined what compounds belong to Group III by defining what X is not and then included anything else in Group IV. No difference in classification is set forth which would suggest that there is no undue search burden on the examiner. Although the examiner propounds that the compounds in the Markush group do not share a common utility and common structure, there is no example or evidence presented that such is the case other than the paragraph on page 7 of the first Office action which is generic to all Groups set forth. However, because there are clear differences in the structure of formula II based on Y alone (i.e. Y is either C or O) and such structures would be classified and searched differently, as well as the broad definition of X, the

restriction requirement between Groups III and IV is deemed appropriate. It is noted that in the species elected Y is O, not C.

DECISION

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

The application will be forwarded to the examiner for consideration of applicants' reply filed May 15, 2006, and further action not inconsistent with this decision.

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.

George C. Elliott.
Director, Technology Center 1600

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NEW YORK NY 10018

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OFFICE OF PETITIONS

In re Application of :
Kent Dirksen Kasper et al :
Application No. 10/628,652 :
Filed: July 28, 2003 :
Attorney Docket No. 600.1283 :

ON PETITION

This is a decision on the petition, filed December 10, 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 17, 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 2854 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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CHIEF PATENT COUNSEL
UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP
150 GLOVER AVENUE
NORWALK, CT 06856

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OFFICE OF PETITIONS

In re Application of	:	
William Wayne Cimino et al	:	
Application No. 10/628,673	:	DECISION ON PETITION
Filed: July 28, 2003	:	TO WITHDRAW
Attorney Docket No. 2171CON	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 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 reason provided does 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 of the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request is "...acquired by integra LifeSciences, Corp.... withdraw our attorneys from representation as expeditiously as possible, so as not to impede the transfer of work to integra LifeSciences, Corp." 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 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 3763 to wait a reply to the non-final Office action mailed February 27, 2006.

David Bucci
Petitions Examiner
Office of Petitions

cc: THOMAS RUNK
FULWIDER PATTON
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of :
Scott D. Briles :
Application No. 10/628,677 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. S-100,588 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 18, 2007. The Notice of Abandonment was mailed January 23, 2008.

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

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). The amendment filed herewith petition ***does not*** prima facie place 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) 272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/628,677	Applicant(s) BRILES, SCOTT D.	
	Examiner SIU M. LEE	Art Unit 2611	

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

THE REPLY FILED 16 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See continuation sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3,4 and 6-8*.
   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: _____.

Independent claims 1, 7, and 8 has been amended from the previous "wherein the at least one power splitter selectively connects at least one matched load to the antenna" to "the power splitter connects at least one matched load to the antenna"; that is the selectivity of the power splitter is removed in the amended claims. By removing the selectivity of the power splitter, it changes the scope of the claims. Actually, the selectivity of the power splitter is the only limitation that the examiner can not find in prior art, therefore, there is no art rejection in the final office action. However, the 892 form of the final office action, the examiner cited a reference, Neagley et al. (US 2002/0128052 A1) that disclose a very similar feature of the claimed power splitter without the selectivity. Therefore, the amended claim changes the scope of the claims and require further consideration.

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LOS ALAMOS NM 87545

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OFFICE OF PETITIONS

In re Application of :
Scott D. Briles :
Application No. 10/628,677 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. S-100,588 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 17, 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 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) was obtained. Accordingly, the date of abandonment of this application is July 18, 2007. The Notice of Abandonment was mailed January 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $555 (previously filed); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2611 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.

Terri Johnson
Petitions Examiner
Office of Petitions

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570 West College Avenue
York PA 18405-0872

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OFFICE OF PETITIONS

In re Application of

Atkinson, et al. : ON PETITION

Application No. 10/628,692 :

Filing Date: July 28, 2003 :

Attorney Docket No. **CRM-P15F/P**

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2010.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the final Office action mailed December 11, 2008. The notice allowed a shortened statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on March 12, 2009. A Notice of Abandonment was mailed June 23, 2009.

Examiner Christina Bradley has determined that the amendment after final rejection filed May 14, 2010, places the application in condition for allowance.

The request for an extension of time within the third month, filed May 14, 2010, 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 $1,110.00 will be refunded, in due course.

The application is being forwarded to Technology Center 1600, GAU 1654 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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33150 SCHOOLCRAFT
LIVONIA, MI 48150

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OFFICE OF PETITIONS

In re Application of :
Jan C. Gyure, et al. :
Application No. 10/628,697 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. GJH-100-A :

This is a decision on the petition under 37 CFR 1.137(b), filed December 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 Corrected Application Papers mailed November 12, 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 January 13, 2004.

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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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Tetsuo Tsutsui :
Application No. 10/628,701 : DECISION GRANTING PETITION
Filed: July 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0374 :

This is a decision on the petition, filed March 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 16, 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

C:\Documents and Settings\FHicks\My Documents\470\Mar9\628701.wpd

---

[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).*

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

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Tetsuo Tsutsui :
Application No. 10/628,701 : DECISION GRANTING PETITION
Filed: July 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0374 :

This is a decision on the petition, filed April 9, 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 April 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 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

C:\Documents and Settings\FHicks\My Documents\470\Apr10\628701.wpd

[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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/628701 Patent No.: 7291969 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.

X **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 applicant's all submitted changes

/Ashok Patel/ Ashok Patel 2889

For SPE Minh-Toan Ton Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/628701 Patent No.: 7291969 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.

X **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 applicant's all submitted changes

/Ashok Patel/ Ashok Patel 2889

For SPE Minh-Toan Ton Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH PA 15275-1112

In re Application of :
BLECHERT, SIEGFRIED et al., :
Application No. 10/628,707 :
Filed: July 28, 2003 :
Attorney Docket No. CH-7812/LEA 36,267 :

AUG - 6 2009
DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding of Abandonment (CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on April 17, 2008.

The petition is **DISMISSED.**

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed October 9, 2007, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed April 2, 2008.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on December 19, 2007, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004.

Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

In light of the non-compliance with 37CFR 1.25, the holding of abandonment cannot be withdrawn. Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further correspondence with respect to filing the petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:
Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH PA 15275-1112

In re Application of	:	
BLECHERT, SIEGFRIED, et al.	:	SEP 28 2009
Application No.: 10/628,707	:	DECISION ON
Filing or 371(c) Date: July 28, 2003	:	PETITION
Attorney Docket Number: CH-7812/LEA 36,267	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed April 17, 2008.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed October 9, 2007.

FR 65 specifically states that a general authorization to pay fees submitted prior to the mailing of the notice of allowance will be allowed to act as payment of the issue fee in cases where it is clear the applicant intended to pay the fee.

In view of the foregoing, the previous petition decision denying the withdrawal of holding of abandonment for failure to timely pay the issue fee is hereby reversed and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of
Wolff et al.
Application No. 10/628,734
Filed: July 28, 2003
Attorney Docket No. Mirus.013.03.6

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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 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 by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit 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 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1632 for appropriate action on the amendment filed July 17, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/628,734	07/28/2003	1632	537	Mirus.013.03.6	8	38	2

CONFIRMATION NO. 5547
CORRECTED FILING RECEIPT

25032
MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON, WI 53719

OC000000022012757
OC000000022012757

Date Mailed: 01/17/2007

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)

Jon A. Wolff, Madison, WI;
Sean D. Monahan, Madison, WI;
James E. Hagstrom, Middleton, WI;
David B. Rozema, Madison, WI;
Vladimir G. Budker, Middleton, WI;
Paul M. Slattum, 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
which is a CON of 08/571,536 12/13/1995 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/24/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/628,734

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Bengtsson et al.
Application No. 10/628,745
Filed: July 28, 2003
Attorney Docket No. 60000500-1005

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 20, 2006.

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on May 26, 2004. The Notice to Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). A reply was received on June 23, 2004. A Notice of Incomplete Reply was mailed July 7, 2004, the period of reply continued to run from the original Notice. Accordingly, this application became abandoned on July 27, 2004. A Notice of Abandonment was mailed on July 6, 2006.

Petitioner contends that a reply to the Notice of Incomplete Reply mailed on July 7, 2004, was sent via facsimile on July 26, 2004. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission dated July 26, 2004 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of the sending unit's report which shows transmission was completed on July 26, 2004.

The response submitted July 26, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

However, it should be noted that petitioner has failed to establish that a fully executed oath or declaration was filed on July 28, 2003. The postcard submitted merely shows a declaration was submitted on July 28, 2003. The Office was in receipt of a declaration executed by Cheung on July 28, 2003. A declaration executed by Bengtsson was missing. The postcard fails to provide the number of pages of declaration submitted.

The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, *number of pages of oath/declaration*, number of pages of cover sheet (provisional application). See MPEP 503.

Accordingly, the Office was correct in charging the surcharge for the late submission of the declaration

This application is being forwarded to the Office of Initial Patent Examination for further processing

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

DEC 17 2001

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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DEC 26 2001
FULWIDER PATTON LEE & UTECHT, LLP
LOS ANGELES

James W. Paul
6060 Center Drive 10th Floor
Los Angeles, CA 90045

In re Application of	:	
FERRERA et al.	:	DECISION ON
Application No.: 09/762,539	:	
PCT No.: PCT/US98/25822	:	PETITION
Int. Filing Date: 04 December 1998	:	
Priority Date: 05 December 1997	:	
Attorney Docket No.: MICRU: 55261	:	
For: VASOOCLUSIVE DEVICE FOR TREATMENT OF ANEURYSMS	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 09 October 2001.

BACKGROUND

On 04 December 1998, applicant filed international application No. PCT/US98/25822 which claimed a priority date of 05 December 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 June 1999. A Demand for international preliminary examination in which the United States was elected, was filed on 01 July 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 1999.

On 08 February 2001, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 along with, *inter alia*, the U.S. basic national fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an assertion of small entity status. Applicants also submitted a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with a declaration signed by three of the four joint inventors and a PETITION FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTOR UNDER 37 CFR 1.47(a) and MPEP 409.03(a). The petition under 37 CFR 1.47(a) was also accompanied by, *inter alia*, a declaration of facts by James W. Paul.

On 21 August 2001, the USPTO mailed a decision granting applicants' petition under 37 CFR 1.137(b) and dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 09 October 2001, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.47(a)" which was accompanied by a copy of a letter sent to Mr. Kurz dated 31 August 2001 and a copy of a certified mail receipt from the USPS.

DISCUSSION

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

As noted in the decision mailed 21 August 2001, items (1), (3), and (4) have been met.

As to item (2), the steps enumerated by Mr. Paul are sufficient to establish that the Mr. Kurz has been presented with the application papers and has refused to execute the application. The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a).

CONCLUSION

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

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office

of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **08 February 2001**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Marisetty, et al. :
Application No. 10/628,769 : DECISION ON PETITION UNDER
Filed: July 28, 2003 : 37 C.F.R. §1.59(b)
Attorney Docket Number: :
042390.P7649C :

This is a decision on the petition filed March 3, 2009, pursuant to 37 C.F.R. §1.59(b), requesting that the issue fee payment made January 23, 2009, be expunged1.

The petition is **DISMISSED**.

A review of the application file history reveals that a Notice of Allowance and Issue Fee Due was mailed October 21, 2008, requiring payment of the issue fee and allowing a statutory period for reply of three months from its mailing date. The issue fee payment was made on January 23, 2009. It is noted than Request for Continued Examination was filed on January 21, 2009. It appears that the application is proceeding under Request for Continued Examination as a non-final Office action was mailed on March 3, 2009.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment

1 It is assumed that applicant is request expungement of the issue fee transmittal form filed January 23, 2009. If petitioner is requesting refund of the issue fee payment, this request must be made through the Office of Finance, Office of Refund under 37 CFR 1.26.

specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

In deciding the petition to expunge information from an application, Section 724.05 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
>
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
>
> (B) it is stated 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;
>
> (C) the information has not otherwise been made public;
>
> (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
>
> (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
>
> (F) the petition fee as set forth in 37 CFR 1.17(*>g<) is included.

The instant petition does not satisfy (B)above. It is further noted that the petition to expunge is not the appropriate if petitioner is seeking to obtain a refund of the issue fee paid. A request for refund of the issue fee should be filed under 37 CFR 1.26 and directed to the Office of Finance, Office of Refund.

The renewed petition must provide appropriate statement as to item (B).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NORRIS, MCLAUGHLIN & MARCUS
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NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
Manchun Lu et al. :
Application No. 10/628,778 : DECISION REFUSING STATUS
Filed: July 28, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 102132-14 :

This is in response to the petition filed March 23, 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 July 28, 2003, without an executed oath or declaration. Accordingly, on May 5, 2004, although after the filing of the instant petition, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

The present petition is filed accompanied by the late filing surcharge and petition fee.

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), (5) and (6). In regards 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 office 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]

In regards to item (5), petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] Petitioners should provide a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

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

---

[1] MPEP 409.03(b).

[2] MPEP 409.03(f).

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FIVE HOUSTON CENTER
17TH FLOOR
HOUSTON TX 77010-4035

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NOV 1 8 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
CHUTER, CHRISTOPHER JOHN :
Serial No.: **10/628,781** : DECISION ON PETITION
Filed: July 28, 2003 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **SYSTEM AND METHOD FOR REAL-TIME CO-RENDERING OF MULTIPLE ATTRIBUTES** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed July 30, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 3 - 8, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
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HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of :
Christopher John Chuter :
Application No. 10/628,781 : DECISION ON PETITION
Filed: July 28, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. HESI.105897 : 37 CFR 1.102
:

This is a decision on the petition under 37 CFR 1.102, filed July 28, 2003,[1] to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

The Office is unable to review the instant petition on its merits because the petition fails to identify on what grounds the petitioner is requesting to make special under 37 CFR 1.102 (a), (b), (c) or (d) **and** sections I-XII under MPEP 708.02. The conditions set forth in MPEP 708.02 include categories (I) Manufacture, (II) Infringement, (III) Health, (IV) Age, (V) Environmental Quality, (VI) Energy, (VII) Recombinant DNA, (VIII) Accelerated Examination, (IX) Superconductivity, (X) HIV/AIDS and Cancer, (XI) Countering Terrorism, and (XII) Biotechnology filed by Small Entities. Petitions to make special are accorded to applications meeting the requirements outlined in one of the categories as set forth in MPEP 708.02. Therefore, the petition is dismissed.

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

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center AU 2676 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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HOUSTON TX 77010

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
CHRISTOPHER JOHN CHUTER :
Application No. 10/628,781 : DECISION ON PETITION
Filed: July 28, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. HESI.105897 : 37 CFR 1.102(c)(2)
:

This petition decision supplements the petition decision dated December 20, 2005. It has been brought to the PTO's attention that the grounds for the petition to make special was stated on the second page of the petition dated July 28, 2003.

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed July 28, 2003, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence to support how it would materially contribute to (A) discovery or development of energy resources. The present invention is a computer method and apparatus for visualizing (rendering) 2-D or 3-D objects usually in the medical field for producing diagnostic images and in the earth science field for imaging geological formations. While petitioner states that the invention may be used by oil exploration and production companies to distinguish geological formations of seismic data which may otherwise be indistinguishable in their natural environment, there is no clear demonstration that the claimed invention is "materially" directed to energy resources. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner for the discovery or development energy resources. While the claimed invention for imaging one or more features in an object may be beneficial in the field of geological exploration, there is no evidence of the invention actually discovering or developing energy resources, and therefore does not rise to the level intended by the Rule.

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

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

By hand: U. S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

The application is being forwarded to the Technology Center Art Unit 2676 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091112

DATE : November 12, 2009

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

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:

All corrections are approved except adding Patent 6,765,570 to the References Cited section since Examiner cannot find any IDS-1449 or PTO-892 comprising this Patent.

/KEE M TUNG/
Supervisory Patent Examiner.Art Unit 2628

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Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Kaneko, et al.
Application No. 10/628,782
Filed: July 28, 2003
For: DISK ARRAY DEVICE, METHOD FOR CONTROLLING THE DISK ARRAY DEVICE AND STORAGE SYSTEM

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on September 17, 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. § 102(d) states in relevant part:

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

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

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

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

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have 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
571-272-3595

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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
10/628,783	07/25/2003	1645	1896	TSRI-900.1	17	65	7

CONFIRMATION NO. 5526

CORRECTED FILING RECEIPT

OC000000011755995

OLSON & HIERL, LTD.
36th Floor
20 North Wacker Drive
Chicago, IL 60606

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)

Martin Friedlander, Del Mar, CA;
Atsushi Otani, San Diego, CA;
Karen Dasilva, La Jolla, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/467,051 05/02/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/14/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Hematopoietic stem cells and methods of treatment of neovascular eye diseases therewith

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).

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LOS ANGELES, CA 90071-2611

MAIL

APR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of KUROKAWA et al
Application No.: 10/628,784
Filing Date: July 28, 2003
For: INFORMATION PROCESSING SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed August 2, 2004 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §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. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in

the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed August 2, 2004 meets the criteria set forth above, the petition to make special is **GRANTED**.

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.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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

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OFFICE OF PETITIONS

In re Application of :
Seiji Tawraya, et al. :
Application No. 10/628,791 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. CU-5983 :

This is a decision in response to the petition filed October 24, 2007[1], to revive the above-identified application under the provisions of 37 CFR 1.137(a).

The petition is **DISMISSED**.

A review of the record reveals that the application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 22, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 23, 2005. A Notice of Abandonment was mailed on Mach 9, 2006. In response, on September 17, 2007, a petition to revive under 37 CFR 1.137(a) and a Request for Continued Examination under 37 CFR 1.114 were filed; however, the papers were directed to an incorrect application number. It is noted that while the transmittal letter of September 17, 2007 indicates that a Petition For Revival Of An Application For Patent Abandoned Unintentionally is being filed along with the requisite $1,500 petition fee, a Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(A) was filed.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[2] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

---

[1] The original petition was filed on September 17, 2007. A copy of the papers filed September 17, 2007 was provided on October 24, 2007 to include the correct application number.

[2] 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.

The petition lacks item (3) since the showing of record is insufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

The papers filed on September 17, 2007 will be moved from the incorrect application file to the present file where they were intended. Likewise, all of the fees paid on September 17, 2007 will be reapplied to this application. It is noted that a petition fee of $1,540 and a RCE filing fee of $810 were applied to this application in association with the copy provided on October 24, 2007 of the original papers filed September 17, 2007. Accordingly, the fees paid October 24, 2007 will be refunded in the form of a credit to counsel deposit account in the amount of $2,350.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner should consider filing an appropriate petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,540 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Seiji Tawaraya, et al.	:	
Application No. 10/628,791	:	ON PETITION
Filed: July 28, 2003	:	
Attorney Docket No. CU-5983	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 22, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on March 9, 2006. On September 17, 2007 a petition to revive under 37 CFR 1.137(a) was filed; however, the petition was dismissed in a decision mailed March 4, 2008. In response, on
March 6, 2008, the present petition was filed. The $1,540 petition fee is being charged to counsel's deposit account as authorized.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $790; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2853 for processing of the RCE filed September 17, 2007 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC - 9 2004

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

In re Application of	:
Young J. Joo et al.	:
Serial No.: 10/628.800	: PETITION DECISION
Filed: July 28, 2003	:
Attorney Docket No.: 764-24	:

This is in response to the anticipated petition under 37 CFR 1.181, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner prepared a Notice of Allowance and Issue Fee Due and a Notice of Allowability. The Notices had the correct address on them. However, in preparation for mailing inadvertently a Mail Cover Sheet from a different application was associated with the Notices and they were mailed to the wrong correspondence address. The papers were returned to the Office before the expiration of the three month statutory period for reply, but not forwarded to the Technology Center for proper processing and remailing of the Notices until recently. Thus a Notice of Abandonment was mailed to applicants by Publications Division when the Issue Fee went unpaid. In view of the evidence of Office error the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded for mailing of new Notices to the correct address and the time period for reply will be restarted.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-20-05

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction on Patent No.: 6935077

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.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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:

HEA[illegible]ELFORD
SUPER[illegible]XAMINER
TEC[illegible]3600

SPE

3673
Art Unit

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

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

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Moore	:	LETTER REGARDING
Application No. 10/628,824	:	PATENT TERM
Filed: July 28, 2003	:	ADJUSTMENT
Atty Docket No. 09282.0006	:	

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINAION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION," filed October 30, 2009. Applicant requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

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

On October 16, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 1,254 days. On October 30, 2009, applicant submitted the instant comment. Applicant discloses that he believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicant states that the Office delay of 1,142 days related to the filing of a Notice of Appeal and the Board of Patent Appeals and Interferences decision mailed May 5, 2009 should have been 1,019, resulting in a total of 1,131 days of adjustment (112 + 1,019 Office delay minus 0 applicant delay).

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicant delay was correct. Pursuant to 37 CFR 1.702(e), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. § 134, if the patent was issued under a decision in the review

reversing an adverse determination of patentability. The Board reversed the examiner in the decision on appeal mailed May 5, 2009 and a Notice of Allowance was mailed on October 16, 2009. Therefore, a 1,142 day adjustment was properly entered for the period beginning on the date the Notice of Appeal was filed, March 21, 2006, and ending on the date the favorable decision was mailed, May 5, 2009.

In view thereof, the revised Patent Term Adjustment remains one thousand two hundred fifty-four (1,254) days.

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 his good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 0 8 2006

OFFICE OF PETITIONS

FISH & RICHARDSON
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Steven Brooks :
Application No. 10/628,836 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 16292-002001 :

This is a decision on the petition, filed May 4, 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 25, 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 2839 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2010

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10628856 Patent No.: 6967039

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1792
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John R. Ley, LLC
5299 DTC Blvd, Suite 610
Greenwood Village, CO 80111

MAILED
FROM DIRECTOR'S OFFICE

DEC 05 2006

TECHNOLOGY CENTER 3600

In re Application of:
Joseph Bieganek, et al.
Appl. No. 10/628,860
Filed: July 28, 2003
For: CONTOURED SEAT CUSHION AND METHOD FOR OFFLOADING PRESSURE FROM SKELETAL BONE PROMINENCES AND ENCOURAGING PROPER POSTURAL ALIGNMENT

: PETITION TO INVOKE
: SUPERVISORY AUTHORITY
: UNDER 37 CFR 1.181

This is a decision on Applicants' Petition under 37 CFR 1.181 filed on June 23, 2006 to invoke supervisory authority.

The Petition is **DISMISSED.**

Petitioners have requested clarification of the April 25, 2006 Office action. Specifically Petitioners have requested (1) factual support for the Examiner's position that "the applied prior art can present the same effect depending upon how it is utilized"; (2) the legal authority upon which the Examiner relies for the position that functional language can be disregarded when determining the claim scope and patentability; (3) clarification of the rejections under 35 USC 112, 2nd paragraph and that a reasonable number of claims be selected as representing the alleged problems under 35 USC 112, 2nd paragraph; (4) the time for response be restarted; and (5) other reasonable relief be given that will promote the reasonable and straightforward future examination of this application.

Regarding Petitioners' requests for factual support for the Examiner's position that "the applied prior art can present the same effect depending upon how it is utilized" and the legal authority upon which the Examiner relies for the position that functional language can be disregarded when determining the claim scope and patentability, these requests are related to appealable matters and are not petitionable. However, MPEP 2114 states "a claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. &

Inter. 1987)." In the Office action of April 25, 2006, the Examiner clearly explained that the prior art meets the claim limitations. The Examiner also stated that since the prior art includes all of the structural limitations, it is capable of meeting the functional language limitations. Therefore these requests are dismissed.

Regarding Petitioners' requests for clarification of the rejections under 35 USC 112, 2nd paragraph and that a reasonable number of claims be selected as representing the alleged problems under 35 USC 112, 2nd paragraph, these requests are also related to an appealable matters and are not petitionable. A review of the Office action of April 24, 2006 indicates that the Examiner clearly explained all of the problems under 35 USC 112, 2nd paragraph. An appeal is the appropriate venue for differences of opinion relating to patentability issues. Therefore this request is dismissed.

Regarding Petitioners' request for restarting the time period for response, since the issues raised in elements (1)-(3) have been dismissed and there are no changes to the Office action resulting from the petition, the request for restating the response period is also dismissed.

Regarding Petitioners' request for other reasonable relief be given that will promote the reasonable and straightforward future examination of this application, a review of the file history does not present any evidence of any arbitrary or capricious actions on the part of the examiner assigned to examine the application. Since Petitioners have not made specific requests for the relief desired, this request is also dismissed.

SUMMARY: The Petition is **DISMISSED.**

Any questions regarding this decision should be directed to Patricia Engle at 571-272-6660.

Donald T. Hajec, Director
Technology Center 3600
571-272-5150

DTH/ple : 11/20/06

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QUINE INTELLECTUAL
PROPERTY LAW GROUP, P.C.
P.O. BOX 458
ALAMEDA, CA 94501

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MAR 27 2006

OFFICE OF PETITIONS

In re Patent No. 6,943,054 :
Issue Date: September 13, 2005 :
Application No. 10/628,868 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 407T-302610US :

This is a decision on the petition under 37 CFR 1.183, filed January 17, 2006, which is being treated under 37 CFR 3.81(b), to accept the addition 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 forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3220. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Wan Laymon
Petitions Examiner
Office of Petitions

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OCT 19 2007

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of	:	
Marc J. Shlaes et al	:	
Application No. 10/628,884	:	DECISION GRANTING PETITION
Filed: July 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 23688.04164	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 19, 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 September 25, 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 2162 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 05/03/2010

Applicant	: Robert P. Enns	: DECISION ON REQUEST FOR
Patent Number	: 7647318	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/628,885	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **711** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAY 10 2004

Director's Office
Group 3700

Paul H. Demchick
Professor Demchick's Patent Services
The Jacob Tomlinson House
407 West Broad Street
Wilson, NC 27893

In re application of
Robert L. Demchick

Serial Number: 10/628891
Filed: July 28, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **RECREATIONAL VEHICLE EQUIPPED WITH EXTERIOR WATER OUTLET**

This is a decision on the petition filed on October 13, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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 is 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: Decision on Petition **GRANTED**.

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

rt: 5/7/04

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MacPherson Kwok Chen & Heid LLP
Suite 226
1762 Technology Drive
San Jose, CA 95110

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/628,896 :
Filed: July 28, 2003 :
Attorney Docket Number: :
M-15049 US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 12, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 21, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 22, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A Reply in response to the Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2827 for processing of the Reply in due course.

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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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 Galleria Pkwy, N.W.
Suite 1750
Atlanta, Ga. 30339

COPY MAILED

AUG 0 2 2007

OFFICE OF PETITIONS

Applicant: Chih-Ming Ke
Appl. No.: 10/628,914
Filing Date: July 29, 2003
U.S. Patent No.: 6,979,820
Issue Date: December 27, 2005
Title: CD SEM AUTOMATIC FOCUS METHODOLOGY AND APPARATUS FOR CONSTANT ELECTRON BEAM DOSAGE CONTROL
Attorney Docket No.: 252016-2160
Pub. No.: US 2005/0023463 A1
Pub. Date: February 3, 2005

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on March 7, 2005, for the above-identified application.

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. 6,979,820 on December 27, 2005, the request is deemed moot.

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

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

[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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of
Stephane Thioliere, et al.
Application No. 10/628,931
Filed: July 29, 2003
Attorney Docket No. 58848US003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 23, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 20, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications 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 at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/28/09**

TO SPE OF : ART UNIT **2629 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/628,942** Patent No.: **7,463,227**

Attn: Regina Liang

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: Formal matters only. No changes to the claims.

/Richard Hjerpe/ SPE, Art Unit 2629

t

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/28/09**

TO SPE OF : ART UNIT **2629 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/628,942** Patent No.: **7,463,227**

Attn: Regina Liang

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: Formal matters only. No changes to the claims.

/Richard Hjerpe/ 4/29/09
SPE, Art Unit 2629 **date**

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JUL 14 2008

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of :
Yongbin Wei et al :
Application No. 10/628,950 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 030228 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 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 July 27, 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 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). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 28, 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 $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; 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 2618 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

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TECHNOLOGY CENTER 3600

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA

In re Application of :
Harold Taylor :
Application No. 10/628,985 :
Filed: July 28, 2003 :
For: TRACKING HITCH ASSEMBLY :
UTILIZING TRACTOR LIFT ARMS :
AS STABILIZERS :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on February 16, 2005. The delay in deciding this petition is sincerely regretted.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated by the OIPE on September 13, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment 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 _____.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for an expeditious Action.

SNM/rjc/7/10/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE: M. Lebentritt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/02

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/629,011 Patent No.: 7115529

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: _____

_____

_____

_____

_____

SPE Art Unit

SPE : M. Lebentritt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/629,011 Patent No.: 7115529

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: _____

_____

_____

_____

_____

_____ 2812

SPE **Art Unit**

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.
10/629,018	07/29/2003	Mohamed M. Morad	2661.465US01	7636

7590 10/10/2008

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
TRAN LIEN, THUY	
ART UNIT	**PAPER NUMBER**
1794	
MAIL DATE	**DELIVERY MODE**
10/10/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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In re Application of :
Royer, Robert J. :
Application No. 10/629,093 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. P16418 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 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 September 14, 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 15, 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 $810, the submission required by 37 CFR 1.114, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2185 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MOTOROLA INC
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of :
Huang, et al. :
Application No. 10/629,104 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. CM0375J1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2007, to revive the above-identified application.

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 December 29, 2006. This Office set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 30, 2007. The Office mailed a Notice of Abandonment on September 28, 2007.

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

The matter is being forwarded to Group Art Unit 2137 for consideration of the Amendment filed November 12, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Kazuo Koyama, et al.	:	
Application No. 10/629,108	:	DECISION GRANTING PETITION
Filed: July 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03338CIP/HG	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 15, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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NOV 14 2008

In re Application of	:	
KOYAMA et al.	:	LETTER REGARDING
Application No. 10/629,108	:	PATENT TERM ADJUSTMENT
Filed: 07/28/2003	:	
Atty Docket No. 03338CIP/HG	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR §1.705)" filed May 8, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 259 days.

On February 20, 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 (PTA) to date is 177 days. On May 8, 2008, applicants filed the instant application for patent term adjustment. Applicants assert that the patent term should be adjusted by an additional 82 days for the Office's failure to respond to the Request for Continued Examination (RCE) of August 29, 2006, not later than four months after the date on which the reply was filed. See 37 CFR 1.702(a)(2).

Prior to the Office rendering a decision on the present application for patent term adjustment, applicants filed a petition to withdraw from issue, a RCE, and an Information Disclosure Statement on October 8, 2008. The application was withdrawn from issue and prosecution was reopened, as indicated by the decision mailed on October 14, 2008.

It is noted that applicants filed the instant application for patent term adjustment before the mailing of a new Notice of Allowance. It is further noted that an application for patent term adjustment under 37 CFR 1.705(b)[1] is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date.

---

[1] As stated in 37 CFR 1.705(b):

> Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. 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); and
>
> (2) A statement of the facts involved, specifying:
>
> (i) The correct patent term adjustment and the basis or bases under § 1.702 for the adjustment;
>
> (ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;
>
> (iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and
>
> (iv)
>
> (A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or
>
> (B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

Applicants must review the determination of patent term adjustment at the time of mailing of the new Notice of Allowance and submit a new timely application for patent term adjustment in response to any new Notice of Allowance.[2] A copy of this decision should be included in any future request for reconsideration of the patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on May 9, 2008.

Technology Center AU 2627 has been advised of this decision. The application is forwarded to the Technology Center 1625 for consideration of the RCE and the Information Disclosure Statement by the Examiner.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[2] "Since the Office must complete its determination of patent term adjustment before proceeding to issue the patent (35 U.S.C. 154(b)(3)(D)), the Office must require that such application for patent term adjustment be filed within a non-extendable time period and set forth with particularity why the Office's patent term adjustment determination is not correct. In the absence of these requirements, the issuance of the patent will be further delayed by a protracted patent term adjustment determination proceeding." MPEP 2734.

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OFFICE OF PETITIONS

In re Application of	:	
KOYAMA et al.	:	LETTER REGARDING
Application No. 10/629,108	:	PATENT TERM ADJUSTMENT
Filed: 07/28/2003	:	
Atty Docket No. 03338CIP/HG	:	

This letter is in response to the "LETTER RE: PATENT TERM ADJUSTMENT," filed November 25, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of Patent Term Adjustment is **GRANTED to the extent indicated herein**.

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 **146 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 11, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 289 days. On November 25, 2008, applicants submitted the instant comment.

Applicants request that the Office recalculate the period of patent term adjustment. Specifically, applicants direct the Office's attention to the filing of the amendment under 37 CFR

1.312 on May 14, 2008, as well as the filing of the petition to withdraw from issue on October 8, 2008.

A review of the application history confirms that determination of patent term adjustment under 35 U.S.C. 154(b) is incorrect. It is undisputed that the period of reduction of 30 days pursuant to 37 CFR 1.704 for the filing of a response on May 3, 2006, is correct. However, entry of additional periods of reduction is warranted.

On May 14, 2008, applicants submitted an amendment under 37 CFR 1.312 after the mailing of a notice of allowance, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10). [1] The period of adjustment should have been reduced by the lesser period of 41 days, beginning on the date the amendment under 37 CFR 1.312 was filed, May 14, 2008, and ending on the mailing date of the Office action or notice in response to the amendment, June 23, 2008. Accordingly, a period of reduction of 41 days is being entered.

Additionally, applicants should have been assessed a delay for the filing of the petition to withdraw from issue, the request for continued examination (RCE) and the IDS on October 8, 2008, after the mailing of the notice of allowance on February 20, 2008 (and after payment of the issue fee on May 15, 2008). The Office mailed a response to the petition to withdraw from issue on October 14, 2008. Accordingly, the submission of the petition to withdraw from issue after the mailing of the notice of allowance is a proper basis under 37 CFR 1.704(c)(10) for

---

[1] 37 CFR 1.704(c)(10) provides:

> 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;

reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping. See 37 CFR 1.704(c).

On November 18, 2008, a notice of allowance was mailed in response to the RCE and IDS filed October 8, 2008. A review of the IDS filed October 8, 2008, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

Pursuant to 37 CFR 1.704(c)(10), a first period of reduction of 7 days should have been entered for the submission of the petition to withdraw from issue, counting the number of days beginning on the date the petition was filed, October 8, 2008, and ending on the mailing date of the response to the petition, October 14, 2008. Pursuant to 37 CFR 1.704(c)(10), a second period reduction of 42 should have been entered for the submission of the RCE and IDS, counting the number of days beginning on the date the RCE and IDS were filed, October 8, 2008, and ending on the mailing date of the Office action or notice in response to the RCE and IDS, November 18, 2008.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application ... 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." The first period of reduction of 7 days pursuant to 37 CFR 1.704(c)(10) totally overlaps with the second period

---

[2] Pursuant to 37 CFR 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

of reduction of 42 days. Accordingly, a single period of reduction of 42 days is being entered for these two periods of reduction.

Lastly, the record reveals that applicants should have been assessed an additional delay of 30 days pursuant to 37 CFR 1.704(c)(8).[3] It is undisputed that after filing a response on August 29, 2006, applicants filed Supplemental IDSs on September 21, 2006 and September 28, 2006. The record does not support a conclusion that the examiner expressly requested the filing of either Supplemental IDS. Further, a review of the Supplemental IDSs, filed September 21, 2006 and September 28, 2006, reveals that applicants did not include a proper statement under 37 CFR 1.704(d) in either Supplemental IDS. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, a period of reduction of 30 days is being entered.

It is notes that a further IDS was filed on October 24, 2008. The revised PTA should include any period of reduction for the filing of this IDS.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **146 days** (289 days of Office delay - 143 days (30 + 30 + 41 + 42) of applicant delay).

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 as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicants' good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays

---

[3] Pursuant 37 CFR 1.704(c)(8) provides:

> 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.

under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

PTA Calculations for Application: 10/629108			
Application Filing Date:	07/28/2003	PTO Delay (PTO):	289
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	30
Post-Issue Petitions:	0	Total PTA (days):	146
PTO Delay Adjustment:	-113		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
138	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
137	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		42	
136	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		41	
123	11/18/2008	MAIL NOTICE OF ALLOWANCE			
122	11/18/2008	ISSUE REVISION COMPLETED			
121	11/18/2008	DOCUMENT VERIFICATION			
120	11/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
119	11/17/2008	NOTICE OF ALLOWABILITY			
118	11/14/2008	MAIL-PETITION DECISION - DISMISSED			
117	11/14/2008	PETITION DECISION - DISMISSED			
116	10/08/2008	REFERENCE CAPTURE ON IDS			
115	10/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
111	10/08/2008	DATE FORWARDED TO EXAMINER			
110	10/08/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
109	11/13/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
98	10/08/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	10/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
96	10/14/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
95	10/14/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
94	10/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
93	10/08/2008	PETITION ENTERED			

92	05/08/2008	PETITION ENTERED			
91	06/23/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
89	06/19/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
88	05/14/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
87	05/20/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
86	05/15/2008	ISSUE FEE PAYMENT VERIFIED			
85	05/15/2008	ISSUE FEE PAYMENT RECEIVED			
84	01/24/2008	MISCELLANEOUS INCOMING LETTER			
83	02/25/2008	EXPORT TO INITIAL DATA CAPTURE			
82	02/20/2008	MAIL NOTICE OF ALLOWANCE	155		75
81	06/26/2007	ISSUE REVISION COMPLETED			
80	06/26/2007	DOCUMENT VERIFICATION			
79	06/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
78	06/25/2007	NOTICE OF ALLOWABILITY			
77	06/13/2007	MISCELLANEOUS INCOMING LETTER			
76	06/01/2007	DATE FORWARDED TO EXAMINER			
75	05/18/2007	RESPONSE AFTER NON-FINAL ACTION			
74	09/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	09/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	06/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	06/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	05/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	05/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	03/21/2007	MAIL NON-FINAL REJECTION	82		61
67	03/19/2007	NON-FINAL REJECTION			
66	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	08/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64.7	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

64	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63.7	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	02/26/2007	DATE FORWARDED TO EXAMINER			
61	08/29/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	02/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
59	02/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
58	01/08/2007	FINISHED INITIAL DATA CAPTURE			
57	08/29/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	06/22/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
55	06/19/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
54	06/02/2006	EXPORT TO INITIAL DATA CAPTURE			
53	05/30/2006	MAIL NOTICE OF ALLOWANCE			
52	05/25/2006	ISSUE REVISION COMPLETED			
51	05/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	05/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
49	05/25/2006	NOTICE OF ALLOWABILITY			
48	05/11/2006	DATE FORWARDED TO EXAMINER			
47	05/03/2006	RESPONSE AFTER NON-FINAL ACTION		30	45
46	05/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	01/03/2006	MAIL NON-FINAL REJECTION			
44	11/16/2005	NON-FINAL REJECTION			
43	09/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	09/16/2005	REFERENCE CAPTURE ON IDS			
41.7	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/26/2005	DATE FORWARDED TO EXAMINER			
39	09/16/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

38	09/26/2005	DATE FORWARDED TO EXAMINER			
37	09/16/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	09/26/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	09/16/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	06/17/2005	MAIL FINAL REJECTION (PTOL - 326)			
33	06/16/2005	FINAL REJECTION			
32	05/26/2005	DATE FORWARDED TO EXAMINER			
31	05/17/2005	RESPONSE AFTER NON-FINAL ACTION			
30	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
29	02/22/2005	MAIL NON-FINAL REJECTION			
28	02/18/2005	NON-FINAL REJECTION			
27	12/20/2004	REFERENCE CAPTURE ON IDS			
26.7	12/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
26	12/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	01/15/2005	DATE FORWARDED TO EXAMINER			
24	12/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
23	12/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	11/19/2004	MAIL RESTRICTION REQUIREMENT	52		-1
21	11/18/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	04/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	04/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	10/23/2003	PRELIMINARY AMENDMENT			
17	04/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	03/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	10/23/2003	PRELIMINARY AMENDMENT			
14.7	10/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/12/2003	APPLICATION RETURN FROM OIPE			
12	12/12/2003	APPLICATION RETURN TO OIPE			
11	12/12/2003	APPLICATION DISPATCHED FROM OIPE			
10	12/12/2003	APPLICATION IS NOW COMPLETE			

9	10/22/2003	ADDITIONAL APPLICATION FILING FEES			
8	07/28/2003	CLAIM PRELIMINARY AMENDMENT			
7	10/22/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	10/20/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/11/2003	CASE CLASSIFIED BY OIPE			
3	10/11/2003	CLEARED BY OIPE CSR			
2	09/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/28/2003	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.

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NEW YORK NY 10001-7708

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,504,437	:	
KOYAMA et al.	:	DECISION ON REQUEST FOR
Issue Date: March 17, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/629,108	:	TERM ADJUSTMENT and
Filed: July 28, 2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 03338CIP/HG	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR §1.705(d))" filed May 8, 2009. Patentees request that the patent term adjustment for the above-identified patent be corrected from fifty-eight (58) days to one hundred forty-six days (146) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

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.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eighty-one (81) days**.

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,437 with a revised patent term adjustment of 58 days. The instant request for reconsideration was timely filed within two (2) months of the date the patent issued. See 37 CFR 1.705(d).

Patentees indicate that the above-identified patent is not subject to a terminal disclaimer.

Patentees assert that there were no circumstances that constituted a failure of the applicants to engage in reasonable efforts to conclude processing or examination of the application. Specifically, patentees dispute the reduction of twenty-three (23) days associated with the filing of the "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT" on December 12, 2008. Additionally, patentees disagree with the reduction of sixty-five (65) days based on the filing of the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009.

Pursuant to 37 CFR 1.704:

> (c) 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: . . . .
>
> (10) 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

Furthermore, the OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a

> "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

The record confirms that patentees filed a "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT" on December 12, 2008, after the mailing of the Notice of Allowance.[1] Nonetheless, under the circumstances specific to this case, the filing of the "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT" should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The record reveals that patentee's first opportunity to raise this issue was on December 12, 2008, by filing the "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT." Accordingly, the reduction of twenty-three (23) days is not warranted and will be removed.

However, the Office is not persuaded as to patentees' assertion that no reduction under 37 CFR 1.704(c)(10) is warranted for filing the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009, after the mailing of the Notice of Allowance. This paper is not among the examples of the papers cited in the OG Notice, which do not cause substantial

---

[1] The PTA Calculation Sheet incorrectly shows that patentees filed the "LETTER RE: NON-COMPLAINT INFORMATION DISCLOSURE STATEMENT" on December 9, 2008, instead of December 12, 2008. Nevertheless, both PALM and the Image File Wrapper indicate the Letter was filed on December 12, 2008.

interference and delay in the patent issue process. Thus, the filing of the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009, after the mailing of the Notice of Allowance is a proper basis under 37 CFR 1.704(c)(10) for reduction of the period of adjustment. Unlike the circumstances surrounding the filing of "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT" on December 12, 2008, the filing of the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" was not the first opportunity to raise the matter. Rather, patentees had already addressed this issue with the Examiner by filing the "LETTER RE: NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT" on December 12, 2008, and it was resolved by the Examiner in the Office communication mailed on December 31, 2008. Therefore, the reduction of sixty-five (65) days is merited and will remain.

In view thereof, the patent term adjustment indicated on the patent should be **eighty-one (81) days** (289 days of Office delay - 208 days of applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eighty-one (81) days.**

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,437 B2

DATED : Mar. 17, 2009

INVENTOR(S) : Koyama 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 (58) days

Delete the phrase "by 58 days" and insert – by 81 days--

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MAY 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,504,437	:	
KOYAMA et al.	:	DECISION ON REQUEST FOR
Issue Date: March 17, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/629,108	:	TERM ADJUSTMENT and
Filed: July 28, 2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 03338CIP/HG	:	CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION filed September 1, 2009, which is being treated as a renewed petition under 37 CFR 1.705(d). Patentees request that the patent term adjustment for the above-identified patent be corrected to one hundred forty-six days (146) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

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.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred forty-six days (146) days.**

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,437 with a revised patent term adjustment of fifty-eight (58) days. On May 8, 2009, patentees filed a request for reconsideration of patent term adjustment under 37 CFR 1.705(d) within two (2) months of the date the patent issued. On August 3, 2009, the Office mailed a decision granting the request for reconsideration to the extent that the patent term adjustment indicated on the patent was corrected by issuance of a certificate of correction showing a revised patent term adjustment of eighty-one (81) days. On September 1, 2009, patentees timely filed the present renewed petition within one month of the decision on the request for reconsideration of patent term adjustment mailed August 3, 2009.

Patentees dispute the reduction of sixty-five (65) days under 37 CFR 1.704(c)(10) for the filing of the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009. Specifically, patentees argue:

> The statements made by the Examiner in the December 31, 2008 USPTO COMMUNICATION were not set forth in the December 9, 2009 NOTICE.
>
> [] In order to set the record "straight" and reply to the Examiner's misstatements of USPTO practice and the law, patentees were thus compelled to file a paper in reply to the December 31, 2008 USPTO COMMUNICATION. Patentees thus filed on January 12, 2009 a LETTER RE: USPTO COMMUNICATION DATED DECEMBER 31, 2008 (hereinafter referred to as the "January 12, 2009 LETTER"). It was the filing of the January 12, 2009 LETTER that resulted in an erroneous reduction of 65 days of patent term adjustment, the reversal of which is being requested herein.
>
> The January 12, 2009 LETTER was patentees' first opportunity to reply to the Examiner's erroneous statements in the December 31, 2008 USPTO COMMUNICATION.
>
> As discussed hereinabove, the December 31, 2008 USPTO COMMUNICATION referred to copies of Office Actions in copending family member applications that were submitted in patentees' IDS filed on October 24, 2008. In the January 12, 2009 LETTER, it was asserted that the

> October 24, [2008] IDS was a proper Information Disclosure Statement in that it presented material information with respect to patentability, i.e., copies of Office Actions in copending family member applications. The submission of copies of Office Actions in copending related applications was held to be an appropriate procedure in McKesson Information Solutions, Inc. v. Bridge Medical Inc., 82 USPQ 2d 1865, 1885 (Fed. Cir. 2007).

Petition, 09/01/09, pp. 5-6.

The Office has reconsidered patentees' argument and finds it persuasive. The record confirms that patentees filed a "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009, after the mailing of the Notice of Allowance. Nonetheless, under the circumstances specific to this case, the filing of the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The record reveals that filing the "LETTER RE: USPTO COMMUNICATION DATED DECEMBER 11, 2008" on January 12, 2009, was patentees' first opportunity to address the matter. Accordingly, the reduction of sixty-five (65) days is not warranted and will be removed.

In view thereof, the patent term adjustment indicated on the patent should be **one hundred forty-six (146) days** (289 days of Office delay - 143 days of applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred forty-six (146) days.**

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,437 B2

DATED : Mar. 17, 2009

INVENTOR(S) : Koyama 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 58 days

Delete the phrase "by 58 days" and insert – by 146 days--

PTA Calculations for Application: 10/629108			
Application Filing Date:	07/28/2003	PTO Delay (PTO):	289
Issue Date of Patent:	03/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	118
Post-Issue Petitions:	0	Total PTA (days):	146
PTO Delay Adjustment:	-25		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
157	05/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	65		
152	08/03/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
151	07/29/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	23		
147	03/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
146	02/16/2009	EXPORT TO FINAL DATA CAPTURE			
145	02/13/2009	DISPATCH TO FDC			
144	02/11/2009	WORKFLOW - QUERY REQUEST - FINISH			
143	02/04/2009	ISSUE FEE PAYMENT VERIFIED			
142	02/04/2009	ISSUE FEE PAYMENT RECEIVED			
140	02/03/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
139	02/03/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
139	02/03/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
138	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
138	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
137	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		42	
137	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
136	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		41	
136	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
135	01/12/2009	MISCELLANEOUS INCOMING LETTER		65	134
134	12/31/2008	MAIL MISCELLANEOUS COMMUNICATION TO			

		APPLICANT			
133	12/24/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
132	12/18/2008	PUBS CASE REMAND TO TC			
131	12/09/2008	PUBS CASE REMAND TO TC			
129	12/09/2008	MISCELLANEOUS INCOMING LETTER		23	134
128	12/09/2008	WORKFLOW - QUERY REQUEST - BEGIN			
127	12/09/2008	MAIL PUB NOTICE OF NON-COMPLIANT IDS			
126	12/09/2008	PUB NOTICE OF NON-COMPLIANT IDS			
125	11/25/2008	PETITION ENTERED			
124	11/21/2008	EXPORT TO INITIAL DATA CAPTURE			
123	11/18/2008	MAIL NOTICE OF ALLOWANCE			
122	11/18/2008	ISSUE REVISION COMPLETED			
121	11/18/2008	DOCUMENT VERIFICATION			
120	11/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
119	11/17/2008	NOTICE OF ALLOWABILITY			
118	11/14/2008	MAIL-PETITION DECISION - DISMISSED			
117	11/14/2008	PETITION DECISION - DISMISSED			
116	10/08/2008	REFERENCE CAPTURE ON IDS			
115	10/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
111	10/08/2008	DATE FORWARDED TO EXAMINER			
110	10/08/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
109	11/13/2008	DISPOSAL FOR A RCE / CPA / R129			
98	10/08/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	10/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
96	10/14/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
95	10/14/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
94	10/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
93	10/08/2008	PETITION ENTERED			
92	05/08/2008	PETITION ENTERED			
91	06/23/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
89	06/19/2008	RESPONSE TO AMENDMENT UNDER RULE 312			

88	05/14/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
87	05/20/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
86	05/15/2008	ISSUE FEE PAYMENT VERIFIED			
85	05/15/2008	ISSUE FEE PAYMENT RECEIVED			
84	01/24/2008	MISCELLANEOUS INCOMING LETTER			
83	02/25/2008	EXPORT TO INITIAL DATA CAPTURE			
82	02/20/2008	MAIL NOTICE OF ALLOWANCE	155		75
81	06/26/2007	ISSUE REVISION COMPLETED			
80	06/26/2007	DOCUMENT VERIFICATION			
79	06/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
78	06/25/2007	NOTICE OF ALLOWABILITY			
77	06/13/2007	MISCELLANEOUS INCOMING LETTER			
76	06/01/2007	DATE FORWARDED TO EXAMINER			
75	05/18/2007	RESPONSE AFTER NON-FINAL ACTION			
74	09/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	09/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	06/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	06/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	05/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	05/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	03/21/2007	MAIL NON-FINAL REJECTION	82		61
67	03/19/2007	NON-FINAL REJECTION			
66	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	08/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64.7	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63.7	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

63	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	02/26/2007	DATE FORWARDED TO EXAMINER			
61	08/29/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	02/26/2007	DISPOSAL FOR A RCE / CPA / R129			
59	02/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
58	01/08/2007	FINISHED INITIAL DATA CAPTURE			
57	08/29/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	06/22/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
55	06/19/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
54	06/02/2006	EXPORT TO INITIAL DATA CAPTURE			
53	05/30/2006	MAIL NOTICE OF ALLOWANCE			
52	05/25/2006	ISSUE REVISION COMPLETED			
51	05/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	05/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
49	05/25/2006	NOTICE OF ALLOWABILITY			
48	05/11/2006	DATE FORWARDED TO EXAMINER			
47	05/03/2006	RESPONSE AFTER NON-FINAL ACTION		30	45
46	05/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	01/03/2006	MAIL NON-FINAL REJECTION			
44	11/16/2005	NON-FINAL REJECTION			
43	09/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	09/16/2005	REFERENCE CAPTURE ON IDS			
41.7	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/26/2005	DATE FORWARDED TO EXAMINER			
39	09/16/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	09/26/2005	DATE FORWARDED TO EXAMINER			
37	09/16/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	09/26/2005	DISPOSAL FOR A RCE / CPA / R129			

35	09/16/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	06/17/2005	MAIL FINAL REJECTION (PTOL - 326)			
33	06/16/2005	FINAL REJECTION			
32	05/26/2005	DATE FORWARDED TO EXAMINER			
31	05/17/2005	RESPONSE AFTER NON-FINAL ACTION			
30	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
29	02/22/2005	MAIL NON-FINAL REJECTION			
28	02/18/2005	NON-FINAL REJECTION			
27	12/20/2004	REFERENCE CAPTURE ON IDS			
26.7	12/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
26	12/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	01/15/2005	DATE FORWARDED TO EXAMINER			
24	12/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
23	12/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	11/19/2004	MAIL RESTRICTION REQUIREMENT	52		-1
21	11/18/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	04/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	04/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	10/23/2003	PRELIMINARY AMENDMENT			
17	04/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	03/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	10/23/2003	PRELIMINARY AMENDMENT			
14.7	10/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/12/2003	APPLICATION RETURN FROM OIPE			
12	12/12/2003	APPLICATION RETURN TO OIPE			
11	12/12/2003	APPLICATION DISPATCHED FROM OIPE			
10	12/12/2003	APPLICATION IS NOW COMPLETE			
9	10/22/2003	ADDITIONAL APPLICATION FILING FEES			
8	07/28/2003	CLAIM PRELIMINARY AMENDMENT			
7	10/22/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

6	10/20/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/11/2003	CASE CLASSIFIED BY OIPE			
3	10/11/2003	CLEARED BY OIPE CSR			
2	09/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SUITE 800
MINNEAPOLIS MN 55403-2420

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OFFICE OF PETITIONS

In re Application of :
Carrison, et al. :
Application No. 10/629,114 :
Filed: July 29, 2003 :
Attorney Docket No. 1001.1659101 :
For: APPARATUS AND METHOD FOR TREATING INTRAVASCULAR DISEASE

ON PETITION

This is a decision on the petition, filed August 4, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to properly reply to the non-final Office action, mailed August 11, 2005, which set an extendable period for reply of three (3) months. On January 4, 2006, applicants filed an amendment and a request for a two month extension of time and required fee. On March 23, 2006, the Office mailed a "Response to Amendment" stating that the January 4, 2006 amendment was not fully responsive and requesting that applicants comment of several issues listed in the "Response to Amendment." No time period was set for response. No follow-up correspondence was filed by applicants. A Notice of Abandonment was mailed on July 31, 2006.

Petitioners argue that the application is not abandoned because the Office did not set a period for response when it mailed the "Response to Amendment."

MPEP 714.03 states:

> An examiner may treat an amendment not fully responsive to a non-final Office action by:
>
> > (A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment under 35 USC 133 and 37 CFR 1.135;
> > (B) notifying the applicant that the reply must be completed within the remaining period fro reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)) to avoid abandonment;

(C) setting a new time period for applicant to complete the reply pursuant to 37 CFR 1.135(c).

The treatment to be given to the amendment depends upon:

(A) whether the amendment is *bona fide*;

(B) whether there is sufficient time for applicant's reply to be filed within the time period for reply to the non-final Office action; and

(C) the nature of the deficiency.

Where an amendment is *bona fide* but contains a serious omission, the examiner should: A) if there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a), notify applicant that the omission must be supplied within the time period for reply; or B) if there is insufficient time remaining, issue an Office action setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c).

The amendment filed on January 4, 2006 appears to be *bona fide*. However, the March 23, 2006 "Response to Amendment" was silent as to the time period for response.

The Office should have (1) notified applicants that the defects in the January 4, 2005 amendment must be addressed within the original time period set for reply or (2) set a one month time period to complete the reply.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is withdrawn and the July 31, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be forwarded to Technology Center AU 3763 for the re-mailing of the March 23, 2006 "Response to Amendment" with a specified new time period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Harold Carrison	: DECISION ON REQUEST FOR
Patent Number	: 7662143	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/629,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **687** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky
And Popeo P.C.
24th Floor
666 Third Avenue
New York, NY 10017

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APR 0 1 2009

OFFICE OF PETITIONS

In re Application of
David Pickar et al.
Application No. 10/629,123
Filed: July 28, 2003
Attorney Docket No. 26811-101 UTIL

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 13, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Sean M. Coughlin on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David Pickar
4915 Dorset Avenue
Chevy Chase, MD 20815

cc: Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
One Financial Center
Boston, MA 02111

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/629,123	07/28/2003	David Pickar	26811-010 UTIL

CONFIRMATION NO. 5912

POWER OF ATTORNEY NOTICE

Ivor R. Elrifi
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO P.C.
24th Floor
666 Third Avenue
New York, NY 10017

OC000000035274554

Date Mailed: 04/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2009.

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

/kainabinet/

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
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NEW YORK NY 10036-8704

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In re Application of :

ASHER, Joseph M. et al. :
Application No. 10/629,128 : DECISION ON PETITION
Filed: July 29, 2003 : TO WITHDRAW
Attorney Docket No. **03-1084** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **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 Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed January 03, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JOSEPH M. ASHER**
321 WEST 76TH STREET, APT. 2A
NEW YORK, NY 10023

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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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
10/629,141	07/28/2003	3661	750	678-1197 (P10946)	13	11	2

CONFIRMATION NO. 6567

28249
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

CORRECTED FILING RECEIPT

OC000000014034738

Date Mailed: 10/07/2004

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)

Jin-Won Kim, Seoul, KOREA, REPUBLIC OF;
Hyun-Suk Min, Seoul, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

SAMSUNG ELECTRONICS CO., LTD., KYUNGKI-DO, KOREA, REPUBLIC OF

Power of Attorney:

Rocco Barrese--25253
Peter Dilworth--26450
George Kaplan--28375
Adrian T. Calderone--31746
Daniel Tierney--33461
Paul Farrell--33494
Yuri B. Kateshov--34466
Ann Pokalsky--34697
Michael Musella--39310
Michael Brew--43513

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 16090/2003 03/14/2003

If Required, Foreign Filing License Granted: 10/24/2003

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/629,141

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus for detecting location of movable body in navigation system and method thereof

Preliminary Class

701

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of
Joseph Anderson
Application No. 10/629,158
Filed: July 29, 2003
Attorney Docket No. JRAC-0001

: DECISION ON PETITIONS
: UNDER 37 CFR 1.181, 1.182
: AND 1.183

This is a decision on the "Petition to Correct Official Filing Receipt and/or Petition to Accord Priority Benefit 37 C.F.R. §§ 1.181, 1.182, or 1.183," requesting issuance of a corrected Filing Receipt which sets forth the claim for priority to the prior-filed provisional application; namely, Application No. 60/264,906, filed January 30, 2001.

The petitions are **dismissed**.

ISSUE

Petitioner states that the Official Filing Receipt in the subject application recognizes priority to co-pending International Application No. PCT/US02/0245, filed January 30, 2002, but does not recognize priority of the provisional application, No. 60/264,906, filed January 30, 2001. Petitioner now requests recognition of the proper priority benefit and issuance of a corrected Filing Receipt. Accompanying the petition is an amendment using the suggested lanugage of the USPTO Notice "Benefit Claims to Prior Applications under 35 U.S.C. §§ 119(e), 120, 121, and 365(c)," 1268 OG 89 (18 Mar. 2003).

DISCUSSION AND ANALYSIS OF PETITION UNDER 37 CFR 1.181

It is noted that the instant application did in fact publish with the above-noted PCT application, albeit as a foreign application under 35 U.S.C. § 119(a)-(d), but did not publish with the prior-filed provisional application. It is further noted that the "Declaration and Power of Attorney" filed in this application sets forth under 35 U.S.C. § 120 both the above-noted PCT and provisional applications. Additionally, note is made of the first line of the specification, which reads: " The present application claims the priority benefit of co-pending United States Provisional Application No. 60/264,906, and co-pending International Application No. PCT/US02/0245."

The priority claim to the provisional and PCT applications in both the first line of the specification and the Declaration and Power of Attorney was not properly stated. Petitioner's attention is directed to MPEP 201.11 A. *Reference to Prior Nonprovisional Applications*, which states:

> Any benefit claim that does not both identify a prior application by its application number and specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120. Such benefit claim may not be recognized by the Office and may not be included on the filing receipt even if the claim appears in the first sentence of the specification or an application data sheet * * *.
>
> To specify the relationship between the applications, applicant must specify whether the application is a continuation, divisional, or continuation-in-part of the prior application.

An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed ---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed ---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* Manual of Patent Examining Procedure (8th ed., August 2001), Section 201.11, Reference to First Application.

In view of the above, petitioner has not complied with the requirements of 37 CFR 1.78(a)(2)(i) in setting forth the proper relationship between the instant application and the PCT application. Further, as the first line of the specification is read, the present application is claiming benefit of the provisional application, which provisional application was filed more than one year from the filing date of the instant application. However, as the PCT application was filed within one year of the provisional application, it is proper for the PCT application to claim benefit to the provisional application.

Since petitioner did not specify the correct relationship of the PCT and provisional applications within the time period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii), a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is now the proper avenue for obtaining benefit under 35 U.S.C. §§ 120 and 119(e) to the prior-filed PCT and provisional applications. Accordingly, petitioner is not entitled to a corrected Filing Receipt and the petition under 37 CFR 1.181 must be dismissed.

It is suggested that petitioner file a petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6). A petition thereunder is only applicable to those applications

filed on or after November 29, 2000 and 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.

DISCUSSION AND ANALYSIS OF PETITION UNDER 37 CFR 1.182

37 CFR 1.182 states:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each sitaution by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petitin fee set forth in § 1.17(h).

Since correction of the priority data in an application is provided for in 37 CFR 1.78(a)(3) and 1.78(a)(6), it is inappropriate here to treat the petition under the provisions of 37 CFR 1.182. Accordingly, the petition must be dismissed.

DISCUSSION AND ANALYSIS OF PETITION UNDER 37 CFR 1.183

Petitioner additionally requests waiver under 37 CFR 1.183, but fails to specifically state the rule sought to be waived. The petition further fails to include the $130 petition fee required for consideration of such a petition. Therefore, no consideration will be given on the merits of the petition under 37 CFR 1.183.

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 Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

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

TODD E. MARLETTE, ESQ.
380 HOMELAND SWY., #1A
BALTIMORE, MD 21212

COPY MAILED

JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Joseph Anderson
Application No. 10/629,158
Filed: July 29, 2003
Attorney Docket No. JRAC-0001

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 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 March 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed PCT Application No. PCT/US02/02425, filed January 30, 2002, and provisional Application No. 60/264,906, filed January 30, 2001.

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 pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant pending 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 in 37 CFR §§1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been

benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should 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 the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should 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.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 1722 for consideration by the examiner of the claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of priority to the above-noted , prior-filed PCT and provisional applications set forth in the amendment filed on April 9, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Todd E. Marlette
10044 Edgewater Terrace, #200
Fort Washington, MD 20744

ATTACHMENT: Corrected Filing Receipt

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. CINDY X. QIU
6215 BIENVILLE STREET
BROSSARD QC J4Z 1W6 CA CANADA

COPY MAILED
MAR 15 2010

In re Patent No. 6,949,985	:	
Issue Date: September 27, 2005	:	
Application No. 10/629,162	:	ON PETITION
Filed: July 30, 2003	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 11, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A grantable petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

This petition lacks items (1) above. The statement that the delay was unintentional cannot be accepted at this time since the instant petition is not signed by all inventors. Therefore, the statement is considered as not being submitted by a proper party as required by 37 CFR 1.378(d) which states that 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(s), the assignee, or other party in interest.

The petition is not signed by all of the inventors and the record herein fails to disclose that Cindy X. Qiu was ever given a power of attorney to act on behalf of Chunong Qiu and Yi-Chi Shih, the other inventors or that she is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)[1].

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the maintenance fee of $490 and the $1,640 surcharge fee enclosed with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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 Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed the undersigned at (571) 272-6059.

Alicia Kelley
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

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

DR. CINDY X. QIU
6215 BIENVILLE STREET
BROSSARD QC J4Z 1W6 CA CANADA

In re Patent No. 6,949,985	:	
Issue Date: September 27, 2005	:	
Application No. 10/629,162	:	ON PETITION
Filed: July 30, 2003	:	
Attorney Docket No. None	:	

This is a decision in response to a renewed petition filed April 26, 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**.

This patent expired on September 28, 2009 for failure to pay the 3 ½ year maintenance fee. On January 11, 2010, a petition under 37 CFR 1.378(c) was filed, however; the petition was dismissed on March 15, 2010. The renewed petition filed on April 26, 2010, satisfies the requirement of 37 CFR 1.378(d). Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

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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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Graeme R. Mann :
Application No. 10/629,172 : DECISION GRANTING PETITION
Filed: July 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50335US012 :

This is a decision on the petition, filed March 29, 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 1, 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 2877 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).*

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

FEB 8 2005

Paper No. 092404

Senniger Powers Leavitt & Roedel
One Metropolitan Sq.
16th Floor
St. Louis, MO 63102

In re Application of:
Fenc
Serial No.: 10/629,180
Filed: July 29, 2003

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 29, 2003, 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 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 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 drivers license from the inventor, Jerry Fenc, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding 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

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

Loren H. McRoss
Phoenix Technologies Ltd.
915 Murphy Ranch Road
Milpitas, CA 95035

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

In re Application of Stevens :
Application No. 10/629,191 : Decision on Petition
Filing Date: July 28, 2003 :
Attorney Docket No. 00-1014(CON) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 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 May 17, 2005, 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 August 18, 2005. A Notice of Abandonment was mailed on December 13, 2005.

The instant petition requests revival of the application.

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 2115 will be informed of the instant decision and the application, including the papers filed March 9, 2006, 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

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

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

COPY MAILED

MAY 04 2005

OFFICE OF PETITIONS

In re Application of :
Anton F. J. Fliri et al :
Application No. 10/629,220 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. PC10886B :

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 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 March 25, 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 June 26, 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 AU 1624.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/27/08 Paper No.: ____

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/629253 Patent No.: 7066259 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Uchanda
SPE

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Art Unit

MJS

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

39201/BOOC37

272379

Paper No. 14

HARLEY R BALL
SPRINT LAW DEPARTMENT
6391 SPRINT PARKWAY
MAILSTOP KSOPHT0101-Z2100
OVERLAND PARK KS 6251-2100

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JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of
Christie et al.
Application No. 09/497,719
Filed: February 24, 2000,1997
Docket No. 111a

: ON PETITION

This is a decision on the petition filed April 12, 2002 under 37 CFR 1.182, requesting due to a legal change of name, that USPTO records for this application be updated to reflect that the the inventor formerly known as Manu Chand Bahl is now known as: Bobby Chand Bahl.

The petition is **granted**.

Since the petition includes a copy of the court ordered change of name, the requested relief can be favorably considered.

A corrected filing receipt is enclosed.

This application is being returned to Technolgy Center AU 2662.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
AUG - 2 2002
FAEGRE & BENSON LLP

Enclosure: Corrected Filing Receipt

Date docketed: 8/6/02
Docketed by:
See: LSM
Atty:

RECEIVED
JUL 1 0 2002

PAGE 5/13 * RCVD AT 5/18/2005 5:05:22 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/0 * DNIS:7469195 * CSID:3039389995 * DURATION (mm-ss):03-44

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

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

Mail Date: 04/21/2010

Applicant	: Yasunori Kawate	: DECISION ON REQUEST FOR
Patent Number	: 7618587	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/629,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Lewis B. Aronson	: DECISION ON REQUEST FOR
Patent Number	: 7567758	: RECALCULATION of PATENT
Issue Date	: 07/28/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/629,301	: OF WYETH
Filed	: 07/28/2003	:
		:

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

UNITED STATES DEPARTMENT OF COMMERCE
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Lewis B. Aronson	: DECISION ON REQUEST FOR
Patent Number	: 7613393	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/629,302	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1506** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NEW YORK, NY 10023

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of Patil et al. :
Application No. 10/629,309 : Decision on Petition
Filing Date: July 29, 2003 :
Attorney Docket No. U 014742-0 :

This is a decision on the petition under 37 CFR 1.181, filed May 16, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A final Office action was mailed July 29, 2005.

A Notice of Appeal and request for a three-month extension of time were filed January 30, 2006. The papers have a certificate of mailing date of January 26, 2006.

A Notice of Abandonment was mailed May 8, 2006. The Notice stated a reply had not been filed in response to the final Office action.

Discussion:

A review of the facts indicates a proper reply was timely filed in response to the final Office action.

The maximum extendable time period for petitioner to file an appeal brief, or other proper paper, ends on August 30, 2006.

For the reasons above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office incorrectly charged the Notice of Appeal fee and the fee for an extension of time in response to the submission of a copy of the papers filed January 30, 2006. The sum of $1,520 will be credited to petitioner's deposit account.

Technology Center Art Unit 1653 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will allow petitioner until the end of the maximum

extendable time period to file a proper paper, such as an appeal brief or RCE. If a proper paper is not filed by August 30, 2006, a Notice of Abandonment will be mailed.

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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SUITE 153
10 NORTH CALVERT STREET
BALTIMORE MD 21202

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JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Strohecker et al. :
Application No. 10/629,333 : ON PETITION
Filed: July 29, 2003 :
For: Grinder Pump Tank :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 13, 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 Application (Notice) mailed October 27, 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 28, 2004. A Notice of Abandonment was mailed on October 26, 2004.

The Terminal Disclaimer filed on May 13, 2005 is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file. The fee for filing the Terminal Disclaimer will be credited to petitioner's deposit account.

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 Office of Initial Patent Examination for further processing.

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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TOLEDO, OH 43604

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OFFICE OF PETITIONS

In re Application of :
Forrest P. Gauthier et al :
Application No. 10/629,338 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 1-27278

This is a decision on the petition, filed September 16, 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. 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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OFFICE OF PETITIONS

In re Application of
Jozef Dechamps
Application No. 10/629,355
Filed: July 29, 2003
Attorney Docket No. XP-1107

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition filed December 22, 2003 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 July 29, 2003 without an executed oath or declaration.

Accordingly, on October 28, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 22, 2003, the present petition was filed.

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 (1), (2), (5) and (6).

In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was

sent or given to the non-signing inventor or the inventor's attorney for review.[1] In this respect, it is noted that although the letter dated November 14, 2003, allegedly sent to Mr. Dechamps, references a Declaration and Power of Attorney and Assignment, the letter does not indicate that a copy of the application papers (specification, including claims, drawings, if any, and the Declaration), were ever sent to the non-signing inventor.

Petitioner should submit 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 with first-hand knowledge of the details.

Likewise, before a refusal can be alleged, petitioners must demonstrate that the non-signing inventor was sent or given a copy of the application papers. Petitioners must provide proof that the inventor refused to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners must provide a copy thereof 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.

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. The declaration under 37 CFR 1.63 and 1.64 does not set forth the citizenship, residence, and mailing address of the individual signing on behalf of AGFA-GEVAERT, the putative party having proprietary interest. Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. Since Mr. Dechamps will purportedly not 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.[2]

In regards to item (5), petitioners have not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application under 37 CFR 1.47(b).[3] Petitioners should submit a copy of an executed assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction, award the title of the invention to the Rule 1.47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

Finally, it should also be noted that portions of some of the documents have not provided an English translation and statement of the accuracy thereof. Petitioners should note that any non-English documents filed in the U.S. Patent and Trademark Office must be accompanied by an English translation thereof as well as a statement

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[1] MPEP 409.03(d).

[2] MPEP 409.03(b).

[3] MPEP 409.03(f).

that the translation is accurate.[4]

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

[4] 37 CFR 1.52(d), see MPEP 608.01.

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OFFICE OF PETITIONS

In re Application of
Jozef Dechamps
Application No. 10/629,355
Filed: July 29, 2003
Attorney Docket No. XP-1107

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration filed March 9, 2004, under 37 CFR 1.47(b).

The petition is again **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 July 29, 2003 without an executed oath or declaration and on October 28, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. A petition was filed December 22, 2003 and dismissed in a decision mailed February 26, 2004.

In response, on December 22, 2003, the present petition was filed.

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 original petition lacked items (1), (2), (5) and (6).

Comes now petitioner with a statement from Marc De Niel an employee for the assignee that he (Mr. De Niel) personally presented the application papers to the non-signing inventor, Mr. Dechamps and that Mr. Dechamps refused to execute the oath or

declaration. A statement regarding irreparable damage is presented, a legal memorandum regarding the proprietary interest of AGFA-GEVAERT and an oath or declaration signed by Mr. Robert A. Sabourin, Patent Counsel on behalf of the assignee AGFA-GEVAERT.

The oath or declaration, however is defective in that it does not provide proof of authority of Mr. Sabourin to sign the declaration on behalf of the AGFA-GEVAERT. The declaration must be signed by an officer of the assignee (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor. The officer must identify his or her title in the Declaration. If the declaration is not signed by an officer of the entity applying for Rule 47 status, then proof of authority of the person signing on behalf of the entity must be submitted.[1] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 must be submitted.

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. Please note that effective September 28, 2004, the Office of Petitions can be reached at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] See MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Jozef Dechamps
Application No. 10/629,355
Filed: July 29, 2003
Attorney Docket No. XP-1107

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the second request for reconsideration filed August 12, 2004, under 37 CFR 1.47(b).[1]

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Jozef Dechamps, refuses to join in the filing of the above-identified application after having been personally given a copy of the application papers. Petitioners have also provided a statement regarding irreparable damage and a legal memorandum regarding the proprietary interest of AGFA-GEVAERT .

With respect to the oath or declaration, in the absence of a signature by the inventor Jozef Dechamps, it is signed by Mr. Robert A. Sabourin, Patent Counsel on behalf of the assignee AGFA-GEVAERT, in compliance with 37 CFR 1.63 and 1.67. See MPEP 409.03(b) .

The above-identified 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 at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 2622 for examination in due course.

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]A petition filed December 22, 2003 was dismissed in a decision mailed February 26, 2004. A request for reconsideration was filed March 29, 2004 with a one month extension of time request and a certificate of mail dated May 25, 2004 and was dismissed in a decision mailed July 27, 2004.

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JOZEF DECHAMPS
MECHELSESTEENWEG 130
B-2640 MORTSEL
BELGIUM

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Jozef Dechamps
Application No. 10/629,355
Filed: July 29, 2003
For: METHOD FOR AUTOMATICALLY DETERMINING AN IMPOSITION PLAN

Dear Mr. Dechamps:

You are named as the sole 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 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 Petitions Attorney at (571) 272-3212. 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:
AGFA CORPORATION
LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON MA 01887-1069

PTO/SB/83 (09-04)
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 AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/629,361
Filing Date	July 29, 2003
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	600204549-7

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

Approved 4/5/05
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, 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

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☑ The address associated with Customer Number: 022879

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone			Fax		

Signature	William H. Dippert		
Name	William H. Dippert, Esq.	Registration No.	26,723
Date		Telephone No.	(212) 790-9200

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.

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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.

Please withdraw the following attorneys/agents from the referenced application:

Harry K. Ahn, Reg. No. 40,243
Stephen M. Chin, Reg. No. 39,938
William H. Dippert, Reg. No. 26,723
Arthur Dresner, Reg. No., 24,403
Jules E. Goldberg, Reg. No. 24,408
Gerald H. Kiel, Reg. No. 25,116
Eugene LeDonne, Reg. No. 35,930
Lloyd McAulay, Reg. No. 20,423
Bala Sundararajan, Reg. No. 50,900
Sylvia Tan, Reg. No. 47,324
Michael I. Wolfson, Reg. No. 24,750

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Patent No. 7,590,116 :
Issue Date: September 15, 2009 :
Application No. 10/629,376 : DECISION ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. **14565.0014US01** :

This is a decision on the petition May 4, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent that is being considered under 37 CFR 1.182.

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

The Office of Data Management is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

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United States Patent and Trademark Office
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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Christopher M. Doran	: DECISION ON REQUEST FOR
Patent Number	: 7636327	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/629,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1118** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

3662

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SUITE 1600 – INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55402-3319

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Bruce F. Field :
Application No. 10/629,391 : NOTICE
Filed: July 29, 2003 :
Attorney Docket No. A53.12-0006

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 is being forwarded to Technology Center AU 3618.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of :
Rapeepat Ratasuk et al :
Application No. 10/629,408 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. CE10274R

This is a decision on the petition filed, May 4, 2006 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 November 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 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN
416 COFFMAN STREET
LONGMONT CO 80501

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OFFICE OF PETITIONS

In re Application of :
Kevin R. Triplett et al :
Application No. 10/629,412 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. RM566A :

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 August 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) 272-3208.

The examiner of Technology Center AU 3723 will consider the request for continued examination under 37 CFR 1.114.

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).

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DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Marinier :
Application No. 10/629420 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. I-2-0362.1US :
For: EQUALIZING SIGNAL-TO-INTERFERENCE RATIOS OF DIFFERENT PHYSICAL CHANNELS SUPPORTING A CODED COMPOSITE TRANSPORT CHANNEL

This is a decision on the petition under 37 CFR 1.137(a), filed on August 14, 2006 (certificate of mailing date August 10, 2006), which is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed April 7, 2006, which set a period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on July 8, 2006. A Notice of Abandonment was mailed on August 25, 2006.

Petitioner alleges that the April 7, 2006 Notice of Allowance and Fee(s) Due was not received at the correspondence address of record and therefore, the application is not really abandoned. The undersigned finds this assertion completely convincing because the Office action in question was returned to sender and received in the Office on April 14, 2006.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn and the August 25, 2006 Notice of Abandonment is vacated.

Regarding fees, the $500.00 petition fee filed with the petition under 37 CFR 1.137(a) will be credited to deposit account 09-0435.

Since petitioner has paid the issue fee and publication fee and returned a completed PTOL-85(b), it is unnecessary to re-mail the Notice of Allowance and Fee(s) Due.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SP-TI-3-1
CORNING NY 14831

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OFFICE OF PETITIONS

In re Application of :
Paul S. Danielson et al :
Application No. 10/629,444 : DECISION GRANTING PETITION
Filed: July 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SP03-091 :

This is a decision on the petition under 37 CFR 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 an RCE (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of May 25, 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 Technology Center AU 1641.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SULLIVAN & WORCESTER LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of
Keene et al.
Application No. 10/629,453
Filed: July 29, 2003
Title: Methods for Isolating and Characterizing Endogenous MRNA-Protein (MRNP) Complexes

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 30, 2006.

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

This above-identified application became abandoned for failure to timely file a complete reply to the final Office Action of July 28, 2005. An amendment was filed on January 3, 2006 (certificate of mailing December 28, 2005). In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on March 16, 2006 which set a reply period of one month. A reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on April 17,2006. A Notice of Abandonment was mailed on October 6, 2006.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed March 16, 2006 was never received. Petitioner states a search of the file jacket and docket records confirms the Office Communication was not received. In support of petitioner's contention, a copy of the docket records has been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Since petitioner has submitted a reply to the Notice of Non-Compliant Amendment with the instant petition a re-mailing of Notice is not required. This application is being forwarded to Art Unit 1633 for review of the amendment submitted on October 30, 2006

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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In re Application of :
Anandan PALANI et al. :
Application No. 10/629,466 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. IN01481KB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 July 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 1, 2008. Accordingly, the date of abandonment of this application is July 2, 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 $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Phyllis Spivack or in her absence, the undersigned at (571) 272-7099 .

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

David Bucei
Petitions Examiner
Office of Petitions

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5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

In re Application of:
DAVID A. NORMAN ET AL.
Serial No.: 10/629,475
Filed: 29 July 2003
Docket Number 14489-002003

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on October 22, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

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

An Office action (a non-final rejection) was mailed April 23, 2004, setting a three-month shortened statutory period for reply. A Notice of Abandonment was mailed to petitioner on September 21, 2004.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner refers to the certificate of mailing on the reply, dated October 22, 2005, which was received by the Office.

The file record includes the response of October 22, 2005.

With the reply having been filed within the six month statutory period, and sufficient fees having been paid to extend the time to the full six month period, the application was not in fact abandoned. The Notice of Abandonment mailed by the Office on September 21, 2004, was in error. The holding of abandonment of the application is therefore withdrawn. Inconvenience to the applicant is regretted.

The application is being referred to the examiner for further action. An Office action will be mailed in due course.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN TX 78746

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OFFICE OF PETITIONS

In re Application of	:	
Scott et al.	:	DECISION DISMISSING
Application No. 10/629,480	:	PETITION
Filed: 28 October, 2004	:	
Attorney Docket No. SILA:057C1	:	

This is a decision on the petition filed on 28 October, 2004, requesting that the above-identified application be accorded a filing date of 29 July, 2003, with 37 pages of specification, including 35 claims, and 18 sheets of drawings as a part of the original disclosure.

The petition is dismissed.

The application was deposited 29 July, 2003. The original application papers consisted of a transmittal letter, preliminary amendment, and an Information Disclosure Statement. However, on 21 September, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the specification and an oath or declaration were missing.

In response, on 28 October, 2004, the present petition was filed, accompanied by, *inter alia*, 37 pages of specification and claims and 18 sheets of drawings.

Petitioners assert that the present application is a continuation of Application No. 09/470,273, and that the failure to include a copy of the prior application was an inadvertent mistake. Petitioners further assert that the transmittal letter and preliminary amendment evidence petitioners' intent to file a copy of the prior application with the application papers deposited on 29 July, 2003.

Petitioners' argument has been considered, but is not persuasive. Whether the specification and drawings which petitioners intended to file with this application were a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[1] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[2] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. The specification and drawings which petitioners seek entry of were simply not filed in the USPTO on 29 July, 2003.

To this end, it is noted that the preliminary amendment filed with the original application papers expressly incorporates several other applications, but not the prior co-pending application. Instead, reference is merely made to the prior co-pending application without incorporating the prior co-pending application by reference.

In summary, while this is an unfortunate situation, the USPTO is precluded from offering the requested relief. The showing of record is that although petitioners intended to a file a specification with the application papers deposited on 29 July, 2003, the earliest date a specification was actually received in the USPTO was 28 October, 2004. As such, the application is entitled to a filing date of 28 October, 2004.

As this petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

The application will be processed and examined with a filing date of 28 October, 2004, using the application papers filed on that date.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 28 October, 2004, using the original application papers as well as the specification, claims, and drawings filed on that date.

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[1] See MPEP 608.01(p).

[2] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

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OFFICE OF PETITIONS

In re Application of :
James L. Kroening et al. :
Application No. 10/629,494 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. P1907US00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 17, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 17, 2006. Accordingly, the date of abandonment of this application is January 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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JJGJR.: 07-06

Paper No: __

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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Mussman, et al. :
Application No. 10/629,517 :
Filing Date: 29 July, 2003 :
Attorney Docket No.: 5630/6 :

DECISION

This is a decision on the petition filed on 31 March, 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 12 July, 2005, with reply due absent extension of time on or before 12 October, 2005;
- the instant application went abandoned after midnight 12 October, 2005;
- the Office mailed a Notice of Abandonment on 6 February, 2006;
- Petitioner filed an after-final amendment, which is not of right–the Examiner found that it

was not a proper reply,[1] and mailed an Advisory action on 1 November, 2005;

- on 31 March, 2006, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination (RCE) and fee and an amendment as a submission under 37 C.F.R. §1.114, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. 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.[3]

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

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[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).)

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an 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.

[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.

constitute the care required under Pratt,[7] 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.[8]))

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 Technology Center 2600 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

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[7] 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).

[8] 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.

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DENVER CO 80264

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OFFICE OF PETITIONS

In re Application of
Derek Mitsumori et al.
Application No. 10/629,518
Filed: July 29, 2003
Attorney Docket No. 519-038-USP

ON PETITION

This is a decision on the petition filed February 6, 2008 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 September 20, 2007 for failure to timely pay the issue fee on or before September 19, 2007. Accordingly, a Notice of Abandonment was mailed October 15, 2007.

The issue fee in the amount of $1440.00, petition fee in the amount of $1540.00 and publication fee in the amount of $300 have been charged to deposit account no. 50-3199. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed 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

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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)).

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OFFICE OF PETITIONS

HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET
SUITE 3000
DENVER, CO 80264

In re Application of :
Derek MITSUMORI et al. :
Application No. 10/629,521 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. **5630/07** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 04, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 05, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office Action of May 04, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on February 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2616 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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4875 PEARL EAST CIRCLE
SUITE 200
BOULDER, CO 80301

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FEB 03 2006

OFFICE OF PETITIONS

In re Application of :
Yongliang Chu et al :
Application No. 10/629,522 : DECISION GRANTING PETITION
Filed: July 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61-03A :

This is a decision on the petition, filed February 2, 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 17, 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 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of PetitionS

cc:

Greenlee Winner and Sullivan PC
5370 Manhattan Circle, Suite 201
Boulder, CO 80303

---

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

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OFFICE OF PETITIONS

In re Application of :
Gill et al :DECISION GRANTING FILING
Application No. 10/629,529 :DATE OF July 29, 2003
Filed: July 29, 2003 :
Attorney Docket No. HSJ920030016US4 :

This is a decision on the petition under 37 CFR 1.10(c), filed August 27, 2003, requesting that the above-identified application be accorded a filing date of July 29, 2003, rather than the presently accorded date of July 30, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on July 29, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV 309495995 US showing a stamped date of July 29, 2003. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the USPS receipt stamp of July 29, 2003 appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on July 29, 2003.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN, TX 78701

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OFFICE OF PETITIONS

In re Application of :
Samuel Fournier Lockwood et al :
Application No. 10/629,538 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 5777-00201/EBM

This is a decision on the petition filed, March 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 January 25, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1626 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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: AKAGAWA ET Al.
Application No. 10/629,554
Filed: July 30, 2003
For: MEDIUM FOR RECORDING NETWORK MANAGEMENT PROGRAM, MANAGEMENT COMPUTER AND MANAGING METHOD

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

This is a response to the petition filed September 07, 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.

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 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 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 September 07, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), petitioner must provide a detailed discussion of the reference documents and ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. The petitioner indicates in the last paragraph of page 4 of the petition that the pending claim recite that (a) a notice of a fault and (b) volume access control information from a plurality of storages are received and that (c) the fault is notified to computers which are permitted to access the volumes based on the volume access control information. It is submitted that these features are not set forth in claims 16 and 20 and items (a) and (c) are not set forth in claims 15 and 19. For example, in claim 15, the notifying feature refers to more generic terms of "notifying information related to status or performance..." and not the more specific term specified as the differences in which "the fault is notified..." Th e statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

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 is patentable over the references.** 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.

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

5/10/05

JC

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
AKAGAWA et al
Application No. 10/629,554
Filed: July 30, 2003
For: MEDIUM FOR RECORDING NETWORK MANAGEMENT PROGRAM, MANAGEMENT COMPUTER AND MANAGING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on June 28, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of June 28, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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JAN 25 2005

RAMZI F. ABLHAJ
VITAL CARE GROUP, INC.
8935 NORTHWEST 27TH STREET
MIAMI FL 33172

In re Application of :
Ramzi F. Ablhaj et al :
Serial No.: 10/629,577 :
Filed: July 30, 2003 :
For: Lancet Needle Anchor :

DECISION PETITION

This is in response to applicants' petition filed July 30, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on age of applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore 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 Richard A. Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571)272-4050 or by facsimile transmission at (571)273-0275.

Richard A. Bertsch
Director,
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of	:	
Lain et al.	:	
Application No. 10/629,599	:	DECISION ON APPLICATION
Filed: 07/30/2003	:	FOR
Atty Docket No. 200205658-2	:	PATENT TERM ADJUSTMENT

This is a decision on the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed January 28, 2008, which is properly treated as a petition under 37 CFR 1.705(b).

The application for patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **748 days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 16, 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 to date is 744 days. Applicants timely filed the

instant application for patent term adjustment[1]. Applicants do not state a basis for their disagreement with the according of 744 days of patent term adjustment.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicant delay are incorrect. A copy of the PAIR calculations for this application is enclosed.

Specifically, the reduction of 57 days of patent term adjustment was entered in error. The record does not reveal any circumstances that constitute a failure of applicants to engage in reasonable efforts to conclude processing or examination of the application. The Office should have assessed applicants a delay of zero (0) days.

Additionally, the adjustment of 53 days of patent term was entered in error. The Office mailed a notice of allowance on November 16, 2007, within four months of the filing of an appeal brief in compliance with 37 CFR 1.192 on August 16, 2007. See 37 CFR 1.703(a)(4). Thus, the adjustment of 53 days of patent term is not warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 744 days (744 days of Office delay - 0 days of applicant delay).

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

---

[1] PALM Records indicate that the Issue Fee payment was received on January 28, 2008.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR Screen

Day : Sunday
Date: 7/20/2008

PALM INTRANET

Time: 10:28:47

PTA Calculations for Application: 10/629599			
Application Filing Date:	07/30/2003	PTO Delay (PTO):	801
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	57
Post-Issue Petitions:	0	Total PTA (days):	748
PTO Delay Adjustment:	4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	4		
61	11/16/2007	MAIL NOTICE OF ALLOWANCE	53		40
60	11/14/2007	ISSUE REVISION COMPLETED			
59	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	11/14/2007	DOCUMENT VERIFICATION			
57	11/13/2007	NOTICE OF ALLOWABILITY			
56	09/08/2007	APPEAL BRIEF REVIEW COMPLETE			
55	09/08/2007	DATE FORWARDED TO EXAMINER			
54	08/16/2007	APPEAL BRIEF FILED			
53	08/16/2007	NOTICE OF APPEAL FILED			
52	08/15/2007	MAIL ADVISORY ACTION (PTOL - 303)			
51	08/14/2007	ADVISORY ACTION (PTOL-303)			
50	07/26/2007	DATE FORWARDED TO EXAMINER			
49	07/20/2007	AMENDMENT AFTER FINAL REJECTION		57	39
48	07/25/2007	NOTICE -- DEFECTIVE NOTICE OF APPEAL			
47	07/09/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
46	07/09/2007	MAIL ADVISORY ACTION (PTOL - 303)			
45	07/09/2007	ADVISORY ACTION (PTOL-303)			
44	06/29/2007	DATE FORWARDED TO EXAMINER			
43	05/24/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
42	06/29/2007	APPEAL BRIEF REVIEW COMPLETE			
41	06/29/2007	DATE FORWARDED TO EXAMINER			
40.1	05/24/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
40	05/24/2007	APPEAL BRIEF FILED			

39.1	05/24/2007	DEFECTIVE/NOT ACCEPTABLE NOTICE OF APPEAL			
39	05/24/2007	NOTICE OF APPEAL FILED			
38	05/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	03/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	03/09/2007	FINAL REJECTION			
35	02/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	02/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	01/29/2007	DATE FORWARDED TO EXAMINER			
32	01/17/2007	RESPONSE AFTER NON-FINAL ACTION			
31	01/17/2007	NEW OR ADDITIONAL DRAWING FILED			
30	10/18/2006	MAIL NON-FINAL REJECTION	748		-1
29	10/16/2006	NON-FINAL REJECTION			
28	07/30/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	10/31/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	04/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	03/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	02/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
20.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/31/2003	REFERENCE CAPTURE ON IDS			
17	07/30/2003	REFERENCE CAPTURE ON IDS			
16.7	03/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/30/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	02/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	02/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
12.7	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/28/2003	APPLICATION RETURN FROM OIPE			
9	10/28/2003	APPLICATION IS NOW COMPLETE			
8	10/28/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	10/28/2003	APPLICATION RETURN TO OIPE			
6	10/28/2003	APPLICATION DISPATCHED FROM OIPE			
5	10/28/2003	APPLICATION IS NOW COMPLETE			
4	10/17/2003	CASE CLASSIFIED BY OIPE			
3	10/17/2003	CLEARED BY OIPE CSR			
2	09/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/30/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JASON P. FIORILLO
K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Maher Amer	:	DECISION ON PETITION
Application No. 10/629,640	:	TO WITHDRAW
Filed: July 29, 2003	:	FROM RECORD
Attorney Docket No. 9931-0031	:	

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 29, 2005.

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

A review of the file record indicates that on January 19, 2006 the power of attorney to K&L Gates 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: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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OFFICE OF PETITIONS

In re Application of	:	
Maher Amer	:	DECISION ON REQUEST
Application No. 10/629,644	:	TO WITHDRAW FROM
Filed: July 29, 2003	:	RECORD
Attorney Docket No. ICE-008	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on December 29, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas Turano and the attorneys/agents associated with Customer No. 22832: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application.

Further, 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 has been sold to a third party", do not meet any the conditions set forth in 37 CFR 10.40.

Telephone inquires concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Maher Amer :
Application No. 10/629,644 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 9931-032 :

This is a decision on the petition, filed July 26, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2133 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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P. O. BOX 708
NORTHBROOK IL 60065

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OFFICE OF PETITIONS

In re Application of :
Luciano Nedbal et al. :
Application No. 10/629,662 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 114208-016 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 14, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 13, 2007 for failure to timely reply to the Final Office Action mailed January 3, 2005, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed July 22, 2005.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114. Deposit account no. 16-0605 has been charged for the petition fee and the RCE fee.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record

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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)).

until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3632 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

cc:

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

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LAW OFFICE OF STEVEN B. LEAVITT, L.L.P.
130 Meadowcreek
Rockwall TX 75032

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Michael Dennis Erinakes :
Application No. 10/629,663 : DECISION ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. :
SLUSUN.00001

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 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 August 30, 2005, 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 December 1, 2005. A Notice of Abandonment was mailed on May 16, 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 $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of August 30, 2005 is accepted as being unintentionally delayed.

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) 272-3218.

This application is being referred to Technology Center AU 3753 for appropriate action in the normal course of business on the reply received May 21, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Steven B. Leavitt
P. O. Box 537
Rowlett, TX 75030-0537

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Kristian Hammond, et al. :
Application No.: 10/629,680 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No.: 08803-024 :

This is a decision on the petition, filed January 17, 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 4, 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 2166 for further processing of the request for continued examination under 37 CFR 1.114 filed January 17, 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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OFFICE OF PETITIONS

In re Application of :
Junya Hirano :
Application No. 10/629,684 : DECISION ON PETITION
Filed: July 30, 2003 : PURSUANT TO
Attorney Docket No. 0234-0467P : 37 C.F.R. § 1.181(A)
Title: METHOD FOR CONNECTING :
ELECTRONIC PARTS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 27, 2009.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 12, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 13, 2005. A notice of abandonment was mailed on March 24, 2006.

ANALYSIS

With this petition, Petitioner has alleged that a response to the non-final Office action was filed on March 13, 2006, concurrently with a request for a three-month extension of time. Petitioner has further included a copy of both the response and the request for a three-month extension of time, and it is noted that each contains a date-in stamp from the Office of Initial Patent Examination dated March 13, 2006.

The electronic file has been reviewed, and a copy of each of these submissions has been located in the same. It is clear that each of these submissions was received on March 13, 2006.

Moreover, Office records reflect the receipt of the fee that is associated with the filing of a request for a three-month extension of time on March 13, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

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

CONCLUSION

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the non-final Office action of September 12, 2005, received on March 13, 2006, can be processed 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

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

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Aronson, et al. :
Application No. 10/629,725 : DECISION ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 15436.247.2.1.2:

This is a decision on the "PETITION UNDER 37 C.F.R. §1.53(e)", filed August 12, 2004, which is being treated as a petition to accord the above-identified application a filing date of July 28, 2003, with page 45 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 28, 2003. However, on June 15, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of NonProvisional Application." Applicants were notified that the application papers had been accorded a filing date of July 28, 2003; however, the oath or declaration was omitted. In addition, applicants were notified that page 45 of the specification appeared to have been omitted.

In response, applicants filed a 37 CFR 1.63 declaration, together with the instant petition. Accompanying the petition was a copy of page 45 of the specification. Applicants maintain that the application as originally filed included page 45. In support thereof, applicants submitted a postcard receipt identifying this application, itemizing "Utility Patent Application Transmittal

(4 pgs, in triplicate); Patent Application (4 pgs); Drawings (33 pgs); PTO-2038 in the amount of $1,200.00 (1 pg); Certificate of Express Mailing Label EV 302 232 473 US; and postcard" as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 28, 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. Applicants are reminded to more specifically itemize their applications on future postcards (e.g. number of pages of specification, number of pages of claims, etc.).

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 23-3178.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 28, 2003, using the application papers received in the Office on that date and page 45 of the specification as resupplied on petition filed August 12, 2004. Applicants will receive appropriate notifications and other information in due course from OIPE.

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of :
YUN, et al. :
Application No. 10/629,774 : DECISION GRANTING PETITION
Filed: July 30, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9988.035.00-US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 13, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of
Ju Hwan **YUN, et al.**
Application No. 10/629,774
Filed: July 30, 2003
Attorney Docket No. **9988.035.00-US**

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 December 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Murata et al. :
Application No. 10/629,778 : ON PETITION
Filed: 30 July, 2003 :
Attorney's Docket No. 108563.01 :

This is a decision on the petition filed on 21 November, 2003, requesting that the above-identified application be accorded a filing date of 30 July, 2003, with 12 sheets of drawings, including Figure 13, as a part of the original disclosure.

The petition is granted.

The application was filed on 30 July, 2003.

Accordingly, on 24 October, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 24 October, 2003, but that Figure 13 described in the specification appeared to have been omitted.

In response, on 21 November, 2003, the present petition and a copy of one (1) sheet of drawings containing Figure 13 were filed. Petitioners argue that one sheet of drawings containing Figure 13 was filed with the other application papers on 30 July, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 07/30/03, the above-identified application number, and identifies the application by the inventors' last names and invention title, and acknowledges receipt of, *inter alia*, "12 pp Dwgs. (Figs 1-13)". Petitioners request that the application, including one sheet of drawings containing Figure 13, be accorded a filing date of 30 July, 2003.

A review of the record reveals that 11 sheets of drawings containing Figures 1-12 have been located among the application papers received on 30 July, 2003. However, the evidence is convincing that the application papers deposited on 2 July, 2003,

included 12 sheets of drawings, one of which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawings containing Figure 13 described in the specification, is entitled to a filing date of 30 July, 2003.

The "Notice" mailed on 24 October, 2003, is withdrawn.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 15-0461.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 13 supplied on 21 November, 2003, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 30 July, 2003, using the application papers filed on that date, and the copy of one (1) sheet of drawings containing Figure 13 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
David Chao Hua Wu
Application No. 10/629,797
Filed: July 30, 2003
Attorney Docket No. 1875.47300000

ON PETITION

This is a decision on the petition, filed August 31, 2007, 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. In the alternative petitioner has also requested consideration under 37 CFR 1.137(a).

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

The petition revive under 37 CFR 1.137(a) is **Dismissed**.

Any request for reconsideration for he petition under 37 CFR 1.181 should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed via "e-Office action" on January 25, 2007. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 26, 2007. A Notice of Abandonment was mailed on November 28, 2007.

Petitioner states that the law firm opted out of the" E-Office Action Pilot Program" on January 25, 2007. Petitioner contends a review of docket records shows they did not

view the Office action. Petitioner further states that a search of the application file jacket and docket records shows that no new outgoing correspondence from the USPTO was entered or processed. Petitioner has also provided a statement from Carolyn Moore, the head of docketing.

A review of the file record shows that an e-mail notification was sent to petitioner on January 31, 2007. Further review shows that the e-mail notification of the mailing of the final Office action was reviewed by petitioner on February 2, 2007.

In a petition under 37 CFR 1.181 the petitioner must show, that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the transmission , there is a strong presumption that the Office action was properly sent to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. Petitioner's evidence to establish that the final Office action was not received cannot overcome the Official record which shows that the e-mail notification was viewed by a representative of petitioner.

Petition Under 37 CFR 1.137(a)

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

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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[1] 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.

The Office is in receipt of petitioner's Request for Continued Examination (RCE).

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

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).[2] 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.[3]

Petitioner contends that Carolyn Moore, the head of docketing, informed counsel that an internal audit revealed that the above-identified application was abandoned. Ms. Moore has the responsibility for monitoring, reviewing and docketing all incoming correspondence including e-Office action correspondence. Ms. Moore and others in the docketing department participated in the USPTO webinar training on the pilot program. Additional training was also provided. Ms Moore had direct responsibility for receiving

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[2]See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

and reviewing the e-mail notifications for customer 26111. The procedure for the pilot program included a person trained on using pair would go to private pair and view correspondence page. Once the outgoing correspondence was reviewed, documents were printed. Each printed USPTO document was logged into an incoming correspondence log. Further each USPTO document was to be logged into electronic docketing system (IPMASTER) and secondary backup paper docketing system.

However petitioner contends, for an unknown reason although the docketing department received e-mail notification, no Office action for the application was docketed. A review of the docketing system was conducted but the Office action was not found. Petitioner maintains that the abandonment was the result of clerical error.

While docket/clerical error can be construed as unavoidable, petitioner has failed to provide facts to warrant such a finding. A delay resulting from an error on the part of an employee in the performance of a clerical function may provide the basis provided it is shown 1) the error was the cause of the delay; 2) there was in place a business routine for performing the clerical function which could reasonably be relied upon to avoid errors in its performance and 3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

However, clerical error in the form of careless mistakes or the result of a lack of knowledge of USPTO practices and procedures would not establish unavoidable delay.[4] Petitioner has provided four additional instances in which, e-mail notifications did not result in obtaining an Office communication. The multiple missteps, suggests a lack of training and/or adequate supervision.

An adequate showing of unavoidable delay due to docket/clerical error may include but not limited to:

> *1) statements by all parties with direct knowledge of the circumstances surrounding the delay;*
>
> *2) a through explanation of the docketing system in use;*
>
> *3) identification of the types of records kept;*
>
> *4) identification of the persons responsible for the maintenance of the system, copies of mail ledger, docket sheets, file wrappers;*

---

[4] See, e.g., *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891).

6)an indication why the system failed; and

5)information regarding the training provided to the clerk(s) responsible for the docketing error, the degree of supervision of their work.

Petitioner has failed provide information as to why the business routine explained in the petition was not followed. Petitioner has also failed to provide additional information regarding the degree of supervision provided to members of the docketing department, including that of Ms. Moore.

The facts presented suggest that instead of a clerical or docketing error that perhaps there is a systemic problem which would therefore preclude a finding of unavoidable delay.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional

A review of the record shows petitioner has not requested consideration under 37 CFR 1.137(b) Accordingly, the $1500.00 will be refunded.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. 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
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 0 9 2008

In re Application of :
Wu :
Application No. 10/629,797 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 1875.4730000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 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 January 25, 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 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) was obtained. Accordingly, the date of abandonment of this application is April 25, 2007. Petitions under 37 CFR 1.181 and 1.137(a) were dismissed on March 25, 2008

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2627 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.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/23/09 Paper No.: —

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/629801 Patent No.: 7397459 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 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: Formal matters only. No changes to the claims.

SPE 2629 Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

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

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Katayama et al. : DECISION ON PETITION
Application No. 10/629,808 :
Filed: July 30, 2003 :
Atty Docket No. 1487.36486CC6 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 10, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 1, 2007. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). A continuing application was filed on October 31, 2007[1]. However, applicant did not file in this application the petition for extension of time (and extension fee) required to establish continuity. No reply having been received and no extensions of time obtained, the above-identified application became abandoned on September 2, 2007. In addition, continuity was not established between this application and the application filed October 31, 2007. A courtesy Notice of Abandonment was mailed January 9, 2008.

[1] It is noted that the filing of a continuing application is not a paper directed or placed in the file of the prior application and is not a "reply" to the last Office action in the prior application. Thus, a petition for an extension of time and the fee set forth in 37 CFR 1.17 are required to be filed as a separate paper in the prior application.

In response, applicants filed the instant petition. Applicants previously filed a continuing application. The petition includes payment of the petition fee and the required statement of unintentional delay. Petitioner seeks revival solely for continuity purposes.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application (application No. 11/931,881) filed October 31, 2007.

The petition also includes a fee of $460 for extension for response within the second month. The maximum period for extension for response to the Office action ended on December 14, 2007. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee is subject to refund. In other words, an extension of time is necessary to establish continuity between the prior application and the continuing application filed under 37 CFR 1.53(b) prior to the abandonment of the prior application. However, continuity cannot be established by filing an extension of time after the abandonment of the prior application. Continuity is established by petitioning for revival. Accordingly, the extension of time fee is being refunded to petitioner.

Telephone inquiries related 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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Technology Center 2100

CARL I. BRUNDIDGE
ANTONELLI, TERRY, STOUT, & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

In re Application of: Shirogane, et al.
Application No. 10/629,813
Filed: July 30, 2003
For: STORAGE SYSTEM

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

This is a response to the petition filed August 5, 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.

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 August 5, 2004 fails to adequately meet requirement (e) of the criteria set forth above.

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 alleges that the prior art of record does not disclose certain features. However, at least one feature, namely, "ISCSI protocol", is not recited in at least independent claim 1. Furthermore, Petitioner's submission is deficient in that it merely recites limited portions of the references. For example, the discussion of the Sonoda et al. application is limited to a recitation of the title and apparent reference to a figure. These recitations are accompanied by a single statement that all the references do not include the features of the claimed invention. That is, the submission does not satisfy the requirement, as it does not point out how the ***claimed subject matter is patentable over the references***.

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.

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

HMJ: 11/17/04

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Technology Center 2100

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: SHIROGANE, et al.
Application No. 10/629,813
Filed: July 30, 2003
For: STORAGE SYSTEM

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

This is a response to the Request for Reconsideration filed January 27, 2005, 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 August 5, 2004 and dismissed on November 22, 2004.

The Reconsideration of 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.

A phone interview was held between Sy Luu (Examiner) and Mr. Carl Brundidge (Attorney) representing the Applicants, on April 14, 2005, to discuss the misrepresented distinctive features of the claims over the references deemed most closely related to the subject matter as described in the detailed discussion of the references of the Petition. A follow up phone interview by same to finalize the discussion was held on April 15, 2005. In order to perfect the Petition regarding distinguishing features as recited in the claims over the references, Applicants' representative agreed to the clarifications of the recited features as set forth below, which are not taught or suggested by the Biessner reference, as well as by other identified references.

The present invention as recited in claims 1-4 are not taught or suggested by Biessener being that the present invention provides a management unit for managing FEC redundancies each provided for a transmission partner, an encoding unit for carrying out an FEC encoding process on a packet group, which has been subjected to a TCP/IP conversion process by referencing a redundancy held in the management unit for transmission partner, and a decoding unit for carrying out an FEC decoding process on packet group received from the network.

Further, the present invention as recited in claims 5-20 of the present invention differs from that taught by Biessener in that each of the claims recites some form of carrying out an FEC encoding process. For example, claims 5-7 and 13-15 recite carrying out an FEC encoding process on iSCSI-layer data, claims 8-11 recite carrying out an FEC process, which is based upon FEC redundancy provided for a data communication partner, on data to be transmitted, and claims 16-19 recite carrying out an FEC process, based upon an FEC redundancy cataloged for the specific data-communication destination, on data to be transmitted.

Petition to Make Special is **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 the procedures set forth in 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 4/18/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/15/05

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of
Beight, et al.
Application No. 10/629,817
Filed: July 29, 2003
Attorney Docket No. X11792B
For: AROMATIC AMIDES

ON PETITION

This is a decision on the petition filed July 21, 2005 (certificate of mailing date July 19, 2005), requesting, in effect, that the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed May 20, 2005, be withdrawn. The petition will be treated under 37 CFR 1.53(e).

The application was filed on July 29, 2003. However, on May 20, 2005, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of July 29, 2003, and advising applicants that pages 382-387 of the specification, appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that pages of specification numbered 382-387 were present in the Office on July 29, 2003. In fact, petitioners state that they apparently were inadvertently omitted.

The transmittal letter states that 388 pages of specification were filed on July 29, 2003, but only 382 are present in the application file - - pages 1-381 and an abstract on a separate page. Therefore, the Notice mailed May 20, 2005, was correct in advising applicants that pages 382-387 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.

Petitioners request that the claims found on pages 382-387 be deemed as timely deposited as of the time of filing of the divisional application. This request cannot be granted at present time. The claims were not filed on July 29, 2003 on pages 382 - 387. It is noted that they appear to be present in amended format in the Preliminary Amendment, filed on July 29, 2003.

If petitioners desire to add pages 382-387 from application No. PCT/US99/29946, petitioners have another option. Application no. PCT/US99/29946 was incorporated by reference into the present

application when it was filed.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation of 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 inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition.... (emphasis supplied)

If applicants desire that the omitted pages of specification from application no. PCT/US99/29946 be added to the application, the appropriate procedure is by way of amendment. Any such amendment should be filed prior to the first action on the merits and will be considered by the examiner.

The application is being returned the Office of Initial Patent Examination for further processing with a filing date of July 29, 2003. Pages 382-387 filed with the instant petition will not be processed as part of the application papers.

Telephone inquiries concerning this decision 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

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Ellsworth et al. :
Application No. 10/629,825 : Decision on Petition
Filed: July 30, 2003 :
Attorney Docket No. 70869-0113US :

This is a decision on the petition filed September 20, 2005, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed priority claim set forth in the concurrently filed amendment.

The petition is **dismissed**.

The application was filed on July 30, 2003.

The application was not filed as a national stage of any PCT application.

The specification did not contain a claim for priority based on provisional application no. 60/400,072.

The un-executed declaration contained a claim for priority based on provisional application no. 60/400,072 filed on August 2, 2002, but the priority claim was improper since it was not included in the specification.

The instant petition was filed on September 20, 2005. The petition seeks to amend the specification by adding the language,

> This application is a national stage of PCT/US03/23729, which was filed July 30, 2003, and claims the benefit of United States Provisional application 60/400,072, which was filed on August 2, 2002.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on December 2, 2003. The priority claim at issue was not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(6) which allows one to make late priority claims if certain criteria are satisfied.

Per 37 CFR 1.78(a)(6), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(1) The reference required by 37 CFR 1.78(a)(5)(i), 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 paragraph (a)(5)(ii) of this section 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.

Petitioner has failed to satisfy (1) above. The petition is not accompanied by a reference to the prior-filed application in:

(1) a *proper* amendment to the first line of the specification following the title as required by 37 CFR 1.78(a)(5)(iii), or
(2) an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6).

The amendment submitted concurrently with the instant petition is not considered a proper reference under 37 CFR 1.78(a)(5). The amendment seeks to add language stating the application is a national stage application of a PCT application.

The application was not filed as a national stage of the PCT application.

A regular utility application cannot be converted to a national stage application after the filing of the application.

Although the application can technically be amended to claim continuity based on the PCT application, the Office notes the PCT application and the instant application were both filed on July 30, 2003. Therefore, petitioner may wish to consider whether or not a claim for priority based on the PCT application would bring any benefits.

Any request for reconsideration should be accompanied by a new amendment which does not refer to national stage status for the application. For example, a new amendment should include a statement such as, "This application claims the benefit of U.S. Provisional Application No. 60/---,--- filed ----."

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of
Ellsworth et al.
Application No. 10/629,825
Filed: July 30, 2003
Attorney Docket No. 70869-0113US

Decision on Petition

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application 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 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.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 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 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.

Any inquiries concerning this decision may be directed to Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1723 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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MAR 15 2006
OFFICE OF PETITIONS

In re Application of :
Fumitaro Masaki et al :
Application No. 10/629,879 : DECISION GRANTING PETITION
Filed: July 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1232-5095 :

This is a decision on the petition, filed March 3, 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 2851 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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JUL 31 2006

OFFICE OF PETITIONS

QUARLES & BRADY STREICH LANG, LLP
ONE SOUTH CHURCH AVENUE
SUITE 1700
TUCSON AZ 85701-1621

In re Patent No. 6978184 :
Issue Date: December 20, 2005 :
Application No. 10/629,881 : DECISION GRANTING PETITION
Filed: July 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 0550.001 :

This is a decision on the petition, filed December 19, 2005, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (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 under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 28, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart 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(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6978184 on December 20, 2005 . Therefore, no further action being required, this patented file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215 .

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building
Two Union Square
Chattanooga, TN 37402

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DEC 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Hardayal Singh Gill :
Application No. 10/629,884 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. HSJ920030125US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee and publication fee.

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.

The application file is being referred to the Publishing Division 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

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THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH PA 15219-1425

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Broussard, Milton, Bergeron, Remis,
Popovich & Volkar
Application No.: 10/629,887
Filed: July 29, 2003
Attorney Docket No.: DB000974-001
For: ARTICLE DISPENSING AND COUNTING METHOD AND DEVICE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(b), filed February 2, 2004 (certificate of mailing date January 29, 2004). The petition will be treated under 37 CFR 1.47(a). Petitioners are reminded that when at least one joint inventor executes the declaration, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b)

The petition under 37 CFR 1.47(a) 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 July 29, 2003 without an executed oath or declaration. Accordingly, on October 29, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing, and replacement drawings.

In response, on February 2, 2004 (certificate of mailing date November 29, 2004), a declaration executed by five of six joint inventors, an addendum to the declaration signed by a representative of the former employer of the non-signing inventor, replacement drawings, the surcharge, a one month extension of time with required fee, and the instant petition and required fee were filed. The petition sets forth non-signing inventor Bergeron's last known address. The exhibits to the petition show that Mr. Bergeron was not mailed a copy of the application because he would not execute a non-disclosure agreement. Mr. Bergeron states in a letter dated January 9, 2004, that he is not refusing to join in the filing of the application and would like to receive a copy of the 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 (1) above.

As to item (1), Applicants have failed to establish that Mr. Bergeron has refused to sign the declaration. Rather, Mr. Bergeron has explicitly stated that he has **not** refused to join in the filing of the application. Mr. Bergeron requested a copy of the application. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicants of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the declaration. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Finding a refusal based on conduct is possible. However, more than one attempt to obtain the inventor's cooperation in the filing of the application is typically necessary. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

With respect to the declaration, the addendum signed by a representative of Mr. Bergeron's former employer has no effect in a Rule 47(a) situation. The joint inventors have signed a valid declaration on behalf of Mr. Bergeron. The addendum will be retained in the application file.

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
Office of the Deputy Commissioner
for Patent Examination Policy

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PITTSBURGH PA 15219-1425

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MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of
Broussard, Milton, Bergeron, Remis,
Popovich & Volkar
Application No.: 10/629,887
Filed: July 29, 2003
Attorney Docket No.: DB000974-001
For: ARTICLE DISPENSING AND COUNTING METHOD AND DEVICE

DECISION NOTING JOINDER OF INVENTOR AND DISMISSING PETITION UNDER 37 CFR 1.47(a) AS MOOT

Papers filed on April 15, 2004 (certificate of mailing date April 13, 2004) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on February 25, 2003, included a Declaration signed by the previously nonsigning inventor, Michael A. Bergeron, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is 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 any further consideration under 37 CFR 1.47(a).

This application will be returned to Technology Center 3765 for examination in due course.

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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KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of Schnurr :
Application No. 10/629,901 : DECISION ON PETITION
Filing Date: July 30, 2003 :
Attorney Docket No. 213407.00031 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 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 April 19, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on July 19, 2005. A Notice of Abandonment was mailed on October 25, 2005.

The instant petition requests revival of the application.

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.

The petition states the petition fee is $1,370. However, the current fee for a petition under 37 CFR 1.137(b) is $1,500. Therefore, $1,500 rather than $1,370, was charged to petitioner's deposit account for the petition.

The Office of Publications will be informed of the instant decision so that steps may be taken to issue the application as a patent.

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

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OFFICE OF PETITIONS

In re Application of	:	
Verivada Chandrasekaran et al	:	
Application No. 10/629,934	:	DECISION GRANTING PETITION
Filed: July 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10527-410002	:	

This is a decision on the petition, filed May 23, 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 April 20, 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 3738 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). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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JUN 29 2004

In re Application of
David J. Trettin *et al*
Application No. 10/629,959
Filed: July 30, 2003
Attorney Docket No. 5658/934

: DECISION ON PETITION

This is a decision on the petition to make special filed on March 8, 2004. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3722 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

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

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Matheson/ Keys PLLC
7004 Bee Cave Rd.
Austin TX 78746

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MAR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,479,624 : DECISION ON
Glenn Morris : LETTER REGARDING
Issue Date: 01/20/2009 : PATENT TERM ADJUSTMENT
Application No. 10/629971 : AND NOTICE OF INTENT
Filing or 371(c) Date: 07/30/2003 : TO ISSUE
Atty. Docket No.: 21584-0002001 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 25, 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 three hundred fifteen (315) 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 fifteen (315) days is **GRANTED to the extent indicated herein.**

Under the circumstances, the calculation of Office delay in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) is properly calculated using the mailing date of the final Office action on June 22, 2006. Accordingly, an adjustment of 129 days is properly attributed to the Office for the period beginning on February 14, 2006, the day after the date that is four months after the date on which the reply to the non-final Office action was filed, and ending on June 22, 2006, the date of mailing of the final Office action under 35 U.S.C. 132. Thus the total period of adjustment pursuant to 37 CFR 1.702(a) is four hundred forty-four (444) days.

A further review of the record reveals that the Office errantly neglected to exclude from the patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(B) and 1.702(b) the number of days in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the date of the decision by the Board of Patent Appeals and Interferences. The period of exclusion, 668 days, commenced with the filing of a Notice of Appeal on August 21, 2006, and ended June 18, 2008, the date of the decision by the Board of Patent Appeals and Interferences.

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred eighty-one (681) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,624 B2

DATED : **January 20, 2009**

INVENTOR(S) : Morris

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 905 days.

Delete the phrase "by 905 days" and insert – by 681 days--

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Paper No: __

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OFFICE OF PETITIONS

SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

In re Application of	:	
Boone, et al.	:	
Application No. 10/629,975	:	DECISION
Filing Date: 30 July, 2003	:	
Attorney Docket No.: TLAB.79219	:	

This is a decision on the petition filed on 26 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 non-final Office action mailed on16 November, 2005, with reply due absent extension of time on or before 16 February, 2006;
- the instant application went abandoned after midnight 16 February, 2006;
- the Office mailed a Notice of Abandonment on 2 June, 2006;

- on 26 May, 2006, Petitioner filed the instant petition (with fee), reply in the form of an amendment, and made the statement of unintentional delay.

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).[1]

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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] 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).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt,[6] 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

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[1] 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.

[2] 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.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] 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.

[6] 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.[7]))

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 Technology Center 1600 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

[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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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 Technology Center 1600 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

[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.

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FEB 09 2005

Nutter McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

In re Application of	:	DECISION ON PETITION
Dennis McDevitt et al	:	TO MAKE SPECIAL
Serial No. : 10/629,978	:	(INFRINGEMENT)
Filed : July 03, 2003	:	
For : Self-Locking Suture Anchor	:	

This is a decision on the petition under C.F.R. § 1.102(d) filed July 14, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed July 14, 2004 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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 and 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.

Esther M. Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

OIPE
DEC 12 2005
PATENT & TRADEMARK OFFICE

BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/629,983 First Named Inventor: Ke-Yi Li
Filing Date: 07/29/2003 Attorney Docket No.: USP1998C/SH12-KYL
1761

Title: Serial bean products having multi-flavor, multi-variety and rich nutrition

Date: December 5, 2005

Petition to Make Special under 37 CFR 1.102

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

The applicant respectfully submits a petition to make an application special based on the state of health of the applicant. The applicant respectively provided the medical report shows that the applicant has heart disease. The applicant is worried that he might not be available to assist in the prosecution of the application if it were to run its normal course.

The applicant's medical report is enclosed in "Attachment 1" consisting of 6 pages, together with an English translation, in a sealed envelop with a Transmittal Cover. The personal/medical information submitted as evidence is not become part of the application file record and is submitted pursuant to MPEP § 724.02.

Please accept the above document and your favorable decision for the petition to make special is appreciated. Thank you for your assistance.

Respectfully submitted,

Raymond Y. Chan
Reg. No.: 37,484
108 N. Ynez Ave., #128,
Monterey Park, CA 91754.
Tel.: (626)571-9812
Fax: (626)571-9813

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JAN 18 2006

Certification of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450." on the date below.

Date: 12/07/2005 Signature:
Person Signing: Raymond Y. Chan

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

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

COPY MAILED

DEC 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Cheree L. B. Stevens, et al. :
Application No. 10/629,991 : NOTICE
Filed: July 30, 2003 :
Attorney Docket No.: ADV12 P-305D

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

COPY MAILED

MAY 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Jiten Chatterji, et al. :
Application No. 10/629,993 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. HES 2002-IP-008501U1D1 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed May 5, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioners request that the application be 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 under 37 CFR 1.53(b) filed May 5, 2004.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Files Repository as an abandoned application.

Sherry D. Brinkley
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

AUG 3 2004

VP
PAPER NO. ___

In re Application of
Jiten Chatterji et al.
Serial Number: 10/629,993
Filed: July 30, 2003
For: METHODS AND CEMENT COMPOSITIONS
FOR CEMENTING IN SUBTERRANEAN ZONES

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed July 30, 2003 requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 IV of the MPEP is dismissed because the application has been abandoned.

Accordingly the petition is **DISMISSED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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IPE IAP19 DEC 12 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/630,003 First Named Inventor: Ke-Yi Li
Filing Date: 07/29/2003 Attorney Docket No.: USP1997C/SH11-KYL
1761
Title: Serial flour products having multi-flavor, multi-variety and rich nutrition

Date: December 5, 2005

Petition to Make Special under 37 CFR 1.102

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

The applicant respectfully submits a petition to make an application special based on the state of health of the applicant. The applicant respectively provided the medical report shows that the applicant has heart disease. The applicant is worried that he might not be available to assist in the prosecution of the application if it were to run its normal course.

The applicant's medical report is enclosed in "Attachment 1" consisting of 6 pages, together with an English translation, in a sealed envelop with a Transmittal Cover. The personal/medical information submitted as evidence is not become part of the application file record and is submitted pursuant to MPEP § 724.02.

Please accept the above document and your favorable decision for the petition to make special is appreciated. Thank you for your assistance.

Respectfully submitted,

Raymond Y. Chan
Reg. No.: 37,484
108 N. Ynez Ave., #128,
Monterey Park, CA 91754.
Tel.: (626)571-9812
Fax: (626)571-9813

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

JAN 18 2006

Certification of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450." on the date below.

Date: 12/07/2005 Signature: _____
Person Signing: Raymond Y. Chan

PATENT APPLICATION
ATTORNEY DOCKET NO.:RC-0011-P12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

James BRUGGER

Serial No.: 08/876,445

Filed: June 16, 1997

For: DIFFERENTIAL CONDUCTIVITY HEMODYNAMIC MONITOR

EE142798204US

Examiner:

Group Art Unit: 2213

Assistant Commissioner for Patents
Washington, DC 20231

CERTIFICATE OF EXPRESS MAILING

THE UNDERSIGNED, Marsha Earhart, CERTIFIES THAT HE/SHE IS DEPOSITING THIS CORRESPONDENCE WITH THE U.S. POSTAL SERVICE AS EXPRESS MAIL, WITH EXPRESS MAIL LABEL NO. EE142798204US IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231, ON 2/18, 1998.

DATE OF SIGNATURE: 2/18/98

BY: Marsha Earhart

AMENDMENT

Dear Sir:

Please amend the above identified application for patent to include the following additional inventors:

Francis T. Ogawa and George W. Buffaloe IV

Filed concurrently herewith is a Petition to Correct Inventorship Under 37 C.F.R. 1.48, a Verified Statement of Facts, Consent of Assignee, and a new Declaration and Power of Attorney executed by all inventors.

Respectfully submitted,

Date: 2/17/98

Bruce R. Winsor
Attorney for Applicant
COBE Laboratories, Inc.
1201 Oak Street
Lakewood, CO 80215
(303) 231-4091

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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FEB - 9 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of :
Daniel M. Ritt, et al. :
Application No. 10/630,015 :
Filed: July 30, 2003 :
For: **SYSTEM AND METHOD FOR ALIGNING IMAGES** :

DECISION ON PETITION TO MAKE SPECIAL.

This is a decision on the petition filed December 14, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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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FROM DIRECTOR'S OFFICE

OCT 04 2006

TECHNOLOGY CENTER 3600

New Market Services Corporation
330 South 4th Street
Richmond, VA 23219

In re application of : **DECISION ON PETITION**
F. Alexander Pettigrew et al. : **TO MAKE SPECIAL FOR**
Application No. 10/630,025 : **NEW APPLICATION**
Filed: July 30, 2003 : **UNDER 37 CFR 1.102**
For: POWERED PLATFORM FUEL
CONSUMPTION ECONOMY CREDITS METHOD

This is a decision on the petition filed on September 8, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on September 8, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Special Program Examiner, at (571) 272-6587.

Kenneth J. Dorner
Special Program Examiner
Technology Center 3600

Kjd/kjd: 10/2/06

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Alexandria, VA 22313-1450
www.uspto.gov

Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

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APR 1 8 2006
OFFICE OF PETITIONS

In re Application of :
Cox et al. :
Application No. 10/630,032 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 31045-19 :

This is a decision on the petition under 37 CFR 1.137(a),[1] filed March 23, 2006, to revive the above-identified application.

On January 26, 2005, the Office mailed a Restriction Requirement, which set a one-month extendable period for reply. In the absence of a timely reply, the application became abandoned on February 27, 2005. The present petition precedes the mailing of a Notice of Abandonment.

In the present petition, applicants' attorney asserted the neither applicants nor their attorneys ever received the Restriction Requirement dated January 26, 2005. Applicants' attorney set forth the law office's procedure for docketing correspondence from the USPTO. Furthermore, the attorney attested to the fact that a search of the file jacket and docket records indicated that the Office communication was not received.

---

[1] A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply to the outstanding Office action or notice, 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 include 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 Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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 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, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

A review of the record indicates no irregularity in the mailing of the Restriction Requirement. In the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by a showing that the Restriction Requirement was not in fact received. To establish non-receipt of an Office communication, applicant must include a statement from the practitioner stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicated 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.[6] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report

---

[2] 35 U.S.C. § 133.

[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).

[6] MPEP § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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 non-receipt of the Office action. 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).

Applicants did not submit a copy of the docket record where the non-received Restriction Requirement would have been entered had it been received and docketed. Accordingly, applicants did not demonstrate that the delay in filing a timely response was unavoidable due to non-receipt of the Restriction Requirement. As applicants have not satisfied the requirements of a grantable petition under 37 CFR 1.137(a), 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Applicants may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.137(a).

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. In 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

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OFFICE OF PETITIONS

In re Application of :
Cox et al. :
Application No. 10/630,032 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 31045-19 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 12, 2006, to revive the above-identified application.

On January 26, 2005, the Office mailed a Restriction Requirement, which set a one-month extendable period for reply. In the absence of a timely reply, the application became abandoned on February 27, 2005. The present renewed petition precedes the mailing of a Notice of Abandonment.

Petitioners have satisfied the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Accordingly, the petition is **granted**.

The USPTO finance records indicate that on March 30, 2006, the Office mistakenly charged petitioners' Deposit Account in the amount of $120.00 for a one-month extension of time. As this fee is unnecessary, the Office will refund $120.00 to Deposit Account No. 13-3735.

The matter is being referred to Technology Center Art 3728.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

JUN 27 2005

In re Application of	:	
Brian Baldwin et al.	:	
Serial No. 10/630,059	:	DECISION ON PETITION
Filed: July 30, 2003	:	TO MAKE SPECIAL
For: METHOD FOR FILLING AND CAPPING SYRINGES	:	

Applicant's petition, filed April 1, 2005, 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.

Richard A. Bertsch, Director
Technology Center 3700

Thomas R. Marsh
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

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

MICROVISION, INC
6222 185TH AVENUE NE
REDMOND WA 98052

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APR 25 2007

OFFICE OF PETITIONS

In re Application of
Wiklof et al.
Application No. 10/630,062
Filed: 07/29/2003
Attorney Docket No. MVIS 02-22

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the "PETITION TO ACCEPT UNINTENTIONAL DELAY OF PRIORITY CLAIM UNDER 37 C.F.R. § 1.55," which is being treated as a petition under 37 CFR 1.78(a)(3), filed March 5, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **dismissed.**

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

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

The petition does not comply with item (1)

In reviewing the chain of applications to which applicant is seeking a claim for priority, it does not appear that Application No. 10/304,724 (now Patent No. 6,653,621) referenced earlier-filed Application No. 09/369,674. Where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest)

application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

Section 1481 of the MPEP states, in part:

> Under certain conditions as specified below, however, a Certificate of Correction can still be used, with respect to 35 U.S.C. 120 priority, to correct:
> (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or
> (B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2).
>
> Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;
> (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and
> (C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

Therefore, since it does not appear that Application No. 10/304,724 (now Patent No. 6,653,621) referenced earlier-filed Application No. 09/369,674 as required by 37 CFR 1.78(a)(2)(i), applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) and a certificate of correction in Patent No. 6,653,621.

Additionally, the amendment as drafted is unacceptable, and therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). 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. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Moreover, it does not appear that the Application Data Sheet correctly identifies the proper relationship between the applications. A review of the records indicates that Application No. 10/304,724 is a division of Application No. 09,816,809, which is a division of Application No. 09/369,674, **which differs from the relationships set forth in the ADS submitted on petition.**

In summary, applicant must submit: (1) a grantable petition under 37 CFR 1.78(a)(3), a certificate of correction, and the requisite fees in Patent No. 6,653,621; and (2) a renewed petition under 37 CFR 1.78(a)(3) in Application No. 10/630,062, accompanied by an ADS or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationships of the prior-filed applications to this application.

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 the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Microvision
6222 185th Ave NE
Redmond WA 98052

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of :
Wiklof et al. :
Application No. 10/630,062 : DECISION ON PETITION
Filed: 07/29/2003 :
Attorney Docket No. MVIS 02-22 :

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

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

On October 31, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. 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). Petitioners obtained an extension of time for response within the third month. Accordingly, the application became abandoned on May 1, 2007. On August 8, 2007, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of a RCE, the RCE fee and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

The Office finance records reveal on overpayment of $60.00 for a one-month extension of time fee on March 5, 2007. As this fee is unnecessary, the Office will refund $60.00 to Deposit Account No. 07-1897.

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

This application is being referred to Technology Center AU 2876 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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UNIVERSITY OF CALIFORNIA
LOS ALAMOS NATIONAL
LABORATORY
P.O. BOX 1663, MS A187
LOS ALAMOS, NM 87545

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of

Otis G. Peterson

Application No. 10/630,111

Filed: July 30, 2003

Attorney Docket No. S-100,643

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 27, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 28, 2004. A Notice of Abandonment was mailed on April 1, 2005.

The amendment filed December 12, 2005, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3641 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
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MATTHEW A. PEQUINOT
ESQUIRE HALL, MYERS, VANDE SANDS
& PEQUINOT
10220 RIVER ROAD, STE. 200
POTOMAC MD 20854

In re Application of	:	
Chou H. Li	:	
Application No. 10/630,115	:	ON PETITION
Filed: July 29, 2003	:	
Attorney Docket No. None	:	

This is a decision on the petition, filed March 7, 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 December 27, 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 2818 will consider the request for continued examination under 37 CFR 1.114.

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).

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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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Paper No. _____

Date : March 9, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 0 9 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Chou H. Li
Application No. :10/630,115
Filed :July 29, 2003

The above-identified application has been assigned Patent No. 7,011,991 and an issue date of March 14, 2006.

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 March 14, 2006:

> "All reference to Patent No. 7,011,991 to Chou H. Li of New Jersey for METHOD OF MAKING ATOMIC INTEGRATED CIRCUIT DEVICE appearing in the Official Gazette of March 14, 2006 should be deleted since no patent was granted."

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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BRENT A. CAPEHART
LARIVIERE, GRUBMAN & PAYNE, LLP
19 UPPER RAGSDALE DRIVE, SUITE 200
P.O BOX 3140
MONTEREY, CA 93940

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OCT 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,881,121
Issued: April 19, 2005
Application No. 10/630,133
Filed: July 30, 2003
Attorney Docket No. P1607

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 14, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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 June 4, 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.

This application matured into Patent No. 6,881,121 on April 19, 2005. Therefore, no further action is required.

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

Liana Chase 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
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In Re Application of :
GOLLNICK, CHARLES D., et al. :
Application Serial No. 10/630,138 :
Filed: July 29, 2003 :
For: **NETWORK SUPPORTING ROAMING, SLEEPING TERMINALS** :

DECISION
ON PETITION

This is a response to the petition to expunge papers filed November 7, 2007, pursuant to 37 CFR §1.59(b).

Petitioner requests that certain documents cited in an Information Disclosure Statement (IDS) filed June 3, 2006 be expunged from the record.

As petitioner notes, the documents for which expungement is requested, were not submitted with the aforementioned IDS. As none of the documents were received, they cannot be expunged.

Accordingly the petition is **DISMISSED** as moot.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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 2 2 2004

DCM

In re Application of
Jiten Chatterji, et al.
Serial Number: 10/630,145
Filed: July 30, 2003
For: WELL COMPLETION FOAMED SPACER FLUIDS AND METHODS

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed July 30, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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JUL 21 2004

OFFICE OF THE DIRECTOR
TC 3600

Edward P. Dutkiewicz
P.O. Box 511
Largo, FL 33779-0511

In re application of : **DECISION ON PETITION**
Elaine Gottesman : **TO MAKE SPECIAL**
Application No. 10/630,152 : **(APPLICANT'S AGE)**
Filed: July 30, 2003 :
For: DUAL TOILET PAPER HOLDER SYSTEM :

This is a decision on the petition submitted on July 30, 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 statement from the applicant and a copy of applicant's birth certificate indicating 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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 7/12/04

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Pet. Dec.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 2 2004

DCM

In re Application of
Jerrold Franklin, et al.
Serial Number: 10/630,156
Filed: July 30, 2003
For: ELECTRICAL CONTACTS FOR FUEL CELL

PETITION UNDER
M.P.E.P.708.02 V
AND VI

This is in response to the petition filed July 30, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

DANIEL P. MAGUIRE
423 E ST.
DAVIS, CA 95616

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DOCKET DEPARTMENT
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

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JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
Sekhar Boddupalli, et. al. :
Application No. 10/630,170 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 35-21(54828)B :

This is a decision on the petition under 37 CFR 1.137(b), on November 18, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) for Applications under Accelerated Examination mailed on April 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) a response/election; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on November 18, 2008 has been accepted and made of record. Therefore, a courtesy copy of this decision is being mailed to the address given on the present petition; thereafter, all future correspondence will be mailed to the address of record.

This application file is being referred to Technology Center Art Unit 1618, 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

cc: MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 0 4 2006

OFFICE OF PETITIONS

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 61538
DENVER CO 80206-8538

In re Application of :
Bhushan Mangesh Kanekar et al :
Application No. 10/630,174 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 04546 :

This is a decision on the petition, filed July 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 May 30, 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]

Petitioner is encouraged to note **37 CFR 1.4(c)** where a separate paper should be filed for each distinct subject...

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

The examiner of Technology Center AU 2187 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : August 4, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Bhushan Mangesh Kanekar et al
Application No. :10/630,174
Filed :July 29, 2003

The above-identified application has been assigned Patent No. 7,096,314 and an issue date of August 22, 2006.

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 August 22, 2006:

"All reference to Patent No. 7,096,314 to Bhushan Mangesh Kanekar et al of California for GENERATING AND MERGING LOOKUP RESULTS TO APPLY MULTIPLE FEATURES appearing in the Official Gazette of August 22, 2006 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

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THE LAW OFFICE OF KIRK D.
WILLIAMS
PO BOX 39425
DENVER CO 80239-0425

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FEB 16 2010

In re Application of	:	
Kanekar, et al.	:	
Application No. 10/630,178	:	DECISION ON APPLICATION
Filed: July 29, 2003	:	FOR
Atty Docket No.101. 01935	:	PATENT TERM ADJUSTMENT

This is a decision on the "37 CFR 1.705(b) REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) INDICATED IN THE NOTICE OF ALLOWANCE," filed October 31, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one thousand, one hundred and three (1,103) days to at least one thousand, two hundred fourteen (1,214) days.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **1,214 days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On August 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1,103 days. Applicants timely filed the instant application for patent term adjustment.[1]

Applicants assert that the patent term should be adjusted by an additional 111 days pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) because the Office failed to respond within four

[1] PALM finance records indicate the issue fee was paid on October 31, 2009.

months to the reply filed March 5, 2008. Applicants note that the Office action mailed June 20, 2008, was vacated by correspondence mailed August 13, 2008, and a new Office action was not mailed until October 24, 2008. Accordingly, applicants assert that the patent term should be adjusted by an additional 111 days.

Applicants' argument is well taken and is supported by a review of the file record. It is noted that a reply was filed March 5, 2008, and an Office action was mailed responsively on June 20, 2008. The Office action mailed June 20, 2008, was vacated, however, by a letter mailed August 13, 2008. As the Office action mailed June 20, 2008, was vacated and a restriction/election requirement mailed on October 24, 2008, the restriction/election requirement mailed on October 24, 2008, is the Office action under 35 U.S.C. 132 that should have been used in the calculation of the period of adjustment under 37 CFR 1.702(a)(2). 37 CFR 1.703(a)(2) provides that:

> The period of adjustment under § 1.702(a) is the sum of the following periods:
>
> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing if either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, which ever occurs first[.]

Accordingly, the period of Office delay pursuant to 37 CFR 1.703(a)(2) began July 6, 2008, and ended on October 24, 2008, with the mailing of the restriction/election requirement. Thus, a period of reduction of 111 days will be entered for Office delay pursuant to 37 CFR 1.703(a)(2).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 1,214 days (1,243 (1,132 + 111) days of Office delay - 29 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) was received on October 31, 2009. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Friday
Date: 2/12/2010

Time: 13:04:44

PALM INTRANET

PTA Calculations for Application: 10/630178			
Application Filing Date:	07/29/2003	PTO Delay (PTO):	1132
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	1214
PTO Delay Adjustment:	111		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	02/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	111		
70	08/07/2009	MAIL NOTICE OF ALLOWANCE			
69	08/06/2009	ISSUE REVISION COMPLETED			
68	08/04/2009	DOCUMENT VERIFICATION			
67	08/04/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
66	08/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	08/03/2009	NOTICE OF ALLOWABILITY			
61	07/13/2009	DATE FORWARDED TO EXAMINER			
60	06/19/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	07/13/2009	DATE FORWARDED TO EXAMINER			
58	06/19/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	07/13/2009	DISPOSAL FOR A RCE / CPA / R129			
56	06/19/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	09/24/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
54	03/19/2009	MAIL FINAL REJECTION (PTOL - 326)			
53	03/16/2009	FINAL REJECTION			
52	09/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	01/06/2009	DATE FORWARDED TO EXAMINER			
50	12/24/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
49	12/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	10/24/2008	MAIL RESTRICTION REQUIREMENT			

47	10/22/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
46	09/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
44	08/13/2008	MAIL NOTICE OF WITHDRAWN ACTION			
43	08/12/2008	DATE FORWARDED TO EXAMINER			
42	08/12/2008	LETTER WITHDRAWING / VACATING OFFICE ACTION			
40	06/20/2008	MAIL FINAL REJECTION (PTOL - 326)			
39	06/18/2008	FINAL REJECTION			
38	04/11/2008	DATE FORWARDED TO EXAMINER			
37	03/05/2008	RESPONSE AFTER NON-FINAL ACTION		29	35
36	03/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	11/05/2007	MAIL NON-FINAL REJECTION	1132		-1
34	10/29/2007	NON-FINAL REJECTION			
30	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
27	10/15/2007	FLAGGED FOR 5/25			
26	09/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
25	09/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	09/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	08/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/11/2004	REFERENCE CAPTURE ON IDS			
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17	03/16/2005	REFERENCE CAPTURE ON IDS			
16.7	03/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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14.7	09/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

13	05/26/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
12	05/26/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
10	04/19/2004	TRANSFER INQUIRY TO GAU			
9	01/07/2004	APPLICATION RETURN FROM OIPE			
8	01/07/2004	APPLICATION RETURN TO OIPE			
7	01/06/2004	APPLICATION DISPATCHED FROM OIPE			
6	01/07/2004	APPLICATION IS NOW COMPLETE			
5	07/29/2003	PGPUBS NONPUB REQUEST			
4	12/30/2003	CASE CLASSIFIED BY OIPE			
3	12/30/2003	CLEARED BY OIPE CSR			
2	12/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
James L. Schultz
Application No. 10/630,200
Filed: July 30, 2003
Atty Docket No. 09796447-0113

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed August 9, 2004, 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 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 the expiration of the period specified in 37 CFR 1.78(a)(5) 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)(l) 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 July 30, 2003, within twelve months of the filing date of the prior provisional application No. 60/400,169, filed August 1, 2002, for which priority is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim

for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *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 to benefit to prior-filed provisional Application No. 60/400,169 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 filind 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 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.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (703)305-4497.

This application is being forwarded to Technology Center Art Unit 1722 for appropriate action on the amendment filed July 29, 2004, 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. 60/400,169.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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JAN 12 2007

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

In re Application of	:	
Thomas Thisted et al	:	
Serial No.: 10/630,203	:	SUSPENSION OF ACTION
Filed: July 29, 2003	:	
Attorney Docket No.: 10062.210	:	

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of two months, filed December 22, 2006.

A review of the file history shows that applicants have replied to the last Office action timely. Applicants request that action on this application be suspended for two months in order to determine whether a reference is applicable under 35 U.S.C. 102(e).

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of a US Patent Publication having been used as a reference against the claims under 35 U.S.C. 102(e) which has a common inventor with this application. Applicants state that they are "investigating whether the invention disclosed in the applied reference was derived from the common inventor" and whether the listed inventorship in this application is correct. It is noted that applicants extended the shortened statutory response period by more than two months in replying to the last Office action, presumably as part of their investigative efforts. However, the failure to conclude such efforts does not warrant suspension. Suspension of action is normally granted only in rare circumstances where despite reasonable efforts a complete response cannot be filed, such as preparation of an affidavit showing unexpected results, which requires more than six months to complete. In summary, no showing of good or sufficient cause for suspension has been made in this instance.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for consideration of the amendment filed December 22, 2006.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Mo Xu	: DECISION ON REQUEST FOR
Patent Number	: 7644802	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/630,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **372** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEIGH P. GREGORY
ATTORNEY AT LAW
PO BOX 168
CLEMSON, SC 29633-0168

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of Shalaby :
Application No. 10/630,211 : Decision on Petition
Filing Date: July 30, 2003 :
Attorney Docket No. SHA-26-DIV1 :

This is a decision on the petition under 37 CFR 1.181, filed January 18, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed March 2, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was considered abandoned as of midnight on April 3, 2005. A Notice of Abandonment was mailed November 18, 2005.

Petitioner contends a reply was timely filed by facsimile transmission on March 10, 2005. In support, petitioner has submitted a copy of an "Auto Reply Facsimile Transmission" for the Office indicating 8 sheets of facsimile transmission were received on March 10, 2005. Although the Auto Reply includes a copy of the first page of the transmission, it does not confirm that all 8 pages were intended for the instant application.

Based on the specific facts in the petition, the Office is granting the petition. However, petitioner should note similar facts may not produce similar results in the future. The Office strongly suggests petitioner use Certificate of Transmission practice (37 CFR 1.8) when sending future facsimile transmissions.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1711 will be informed of the instant decision and the examiner will further consider the merits of the application 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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Date Mailed : 1-10-07

Patent No.: 7,129,319 B1
Patent Issued : October 31, 2006
Inventor(s): Shalaby
Title: AMORPHOUS POLYMERIC POLYAXIAL INITIATORS AND COMPLIANT CRYSTALLINE COPOLYMERS THEREFROM
Docket No.: SHA-26-DIV1

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 1.322.

The alleged error in col. 18, claim 3 is printed in accordance with the record.

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Leigh P. Gregory
P.O. Box 168
Clemson, SC 29633-01686

ej

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KEVIN BASTIAN
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO ENBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Michon et al.	:	DECISION ON PETITION
Application No. 10/630,223	:	TO WITHDRAW
Filed: July 30, 2003	:	FROM RECORD
Attorney Docket No. 13564-105038US1	:	

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 14, 2006.

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

A review of the file record indicates that on May 9, 2006 the power of attorney to Townsend and Townsend and Crew, 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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: King & Spalding
1185 Avenue of the Americas
New York NY 10036-4003

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of :
Brian Sze-Ki Mo et al :
Application No. 10/630,249 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 018865-001740US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 Office action mailed May 30, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on July 1, 2006.

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

This matter is being referred to Technology Center AU 2814 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/7/07

Paper No.: —

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/630264 Patent No: 7110823 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**.

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: PLEASE SEE ATTACHMENT.

Edward Coy
SPE

2886
Art Unit

Response to Request for Certificate for Correction

1. The applicant filed a "Request for Certificate for Correction under 37 C.F.R. 1.322" on **October 10, 2006** requesting the following corrections:

a) In column 6, line 9, please delete "member" and insert --element--.
b) In column 6, line 25, please delete "refractor" and insert --refractive--.
c) In column 6, line 26, please delete "polarization device" and insert --optical polarizing device--.
d) In column 6, line 30, please delete "member" and insert --movable--.
e) In column 6, line 43, please delete "member" and insert --movable--.

2. The Examiner **approved** the request for correction of items a) – c) above.

3. The Examiner **did not approve** the request for correction of d) and e) above because it would have only added to the errors in the claims. For example, applicants request d) above would have changed part of claim 4 to read "... said movable ~~member~~ movable is a pig ..." adjacently repeating the word "movable" in the claim. Applicants request e) above would have made a similar adjacently repeated words in claim 7.

4. The applicant filed a "Request for Certificate for Correction under 37 C.F.R. 1.322" on **April 26, 2007** requesting the following corrections:

d_1) In column 6, line 30, please delete "member" and insert --element--.
e_1) In column 6, line 42, please delete "member" and insert --element--.

5. The Examiner has **approved** the request for correction of items d_1) and e_1) above.

6. In the Request for Certificate for Correction filed on **April 26, 2007,** the applicant asserts that "it is believed that no fee is due ... because the errors were made by the Office, ...".

7. From comparing items d) and e) filed on October 10, 2006 and items d_1) and e_1) filed on April 26, 2007, it clear that the **applicant's filings were in error** and that **the Office has not made any errors.** Further, the applicant has not provided any evidence where the Office has made any errors. In view of the above, the **applicant is required to pay any fee that is due** for this "Request for Certificate for Correction."

8. If the applicant believes that the Office has made errors and no fee is due for this "Request for Certificate for Correction," the applicant is requested to file a petition with supporting evidence as to why any fee is not due.

harged to a high voltage by a
netering pump 40 is driven by a
ft 42 of an insulating material and
ng pump arrangements, a fracture
or a clutch failure may lead to the
metering pump 40 while of the
s to rotate. In order to monitor the
ically acting transmitter element,
tly mounted on the input shaft of
n clutch element 48 that is seated
ut shaft, wherein said transmitter
of the above-described type which
the vicinity of the clutch element
nes to a stop, the light signal
0 during normal operation due to
e magnet 44 is correspondingly
signal also changes with the fre-
n change in the sensor 45, this
dicates that the described sensor
measuring the rotational speed of
rostatic coating system that are
ge. The signal evaluation or the
onal speed may take place in the
remotely from the high-voltage

mple for utilizing the invention
nent and the magnetically acting
ng collision protection elements
etrostatic coating system which
ting tool or other tool. In this case,
in or on a stationary part of the
nent is arranged in or on a part that
onary part during a collision of the
for this is the arrangement of the
nitting element on the mounting
it, for example, is exchangeably
obot and moves relative to its
collides with the workpiece to be
he system. In this case, the sensor
ting flange of the robot in the
ally acting transmitting element.
ange in the light signal that occurs
nagnetic field on the sensor or the
ield in the sensor becomes weaker
system is particularly suitable for
e of the type described in DE 101
hich is incorporated by reference.
element may also be arranged in

needle valve in an electrostatic atomizer described in DE 101 15 472, which is incorporated herein by reference.

The invention claimed is:

1. A sensor system for a conductive coating delivery system subject to high voltage, comprising:

a movable element including a magnetically acting transmitter element for signaling the position or movement of said movable member, and

a sensor element responsive to said magnetically acting transmitter element in a portion of said conductive coating delivery system subject to high voltage, said sensor element including an optical polarizing device subject to magneto-optical change upon approach of said magnetically acting transmitter element of said movable member generating a light signal, and

optical fibers connected to said sensor receiving said light signal connected to an electronic device situated remotely from said high voltage generating an electric signal corresponding to said light signal.

2. The sensor as defined in claim 1, wherein said magnetically acting transmitter element is a permanent magnet.

3. The sensor as defined in claim 1, wherein said sensor element includes a refractor element which turns polarized light located between said polarization device and said reflector.

4. The sensor as defined in claim 1, wherein said conductive coating delivery system includes a delivery line, said movable member is a pig movable through said delivery line and said pig including an embedded permanent magnet.

5. The sensor as defined in claim 4, wherein said conductive coating delivery system includes a pig station receiving said pig and said sensor element is located in said pig station signaling receipt of said pig in said pig station.

6. The sensor as defined in claim 4, wherein said sensor element is located adjacent said delivery line signaling movement of said pig through said delivery line past said sensor element.

7. The sensor as defined in claim 1, wherein said conductive coating delivery system includes a delivery line receiving said movable member and said electronic device is connected to a valve delivering fluid to said delivery line.

8. The sensor as defined in claim 1, wherein said conductive coating delivery system includes an apparatus having a movable member and a stationary member and said sensor element is located on said stationary member.

element

refractive optical polarizing device

element

element

Contact/Status Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427.** The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tarifur Chowdhury** can be reached on **571-272-2287.** The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 27, 2007

Roy M. Punnoose
Primary Patent Examiner
Art Unit 2886

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/7/07

Paper No.: —

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/630264 Patent No: 7110123 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**.

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: PLEASE SEE ATTACHMENT.

SPE

2886
Art Unit

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CHATTANOOGA TN 37402-2289

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Bowling and Adams	:	
Application No. 10/630,290	:	DECISION REFUSING STATUS
Filed: 30 July, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001	:	
33,212	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 30 July, 2003.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 July, 2003, with a declaration naming Michael Bowling and Phil Adams as joint

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

inventors and signed by joint inventor Bowling and by petitioner's counsel on behalf of joint inventor Adams. The present petition was also filed on 30 July, 2003. Petitioners' counsel asserts that a copy of the application was sent to the non-signing inventor, but that the inventor returned the application papers along a statement stating that the non-signing inventor was refusing to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2).

In regards to item (1), in the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted 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. If the application is returned as undeliverable, petitioners should present a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office.

Petitioners should provide, with any renewed petition, a copy of the statement in which the non-signing inventor refuses to sign the declaration.

With regards to item (2), the declaration submitted with the present petition is defective in that if at least one inventor signs the declaration, there is no provision in the rules or laws for counsel or another individual to sign the declaration on behalf of the non-signing inventor. Rather, all the signing inventors must sign the Declaration under 37 CFR 1.63 on behalf

of themselves and on behalf of the non-signing inventor(s). The Declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor. The declaration is not acceptable if there are two or more signing inventors and only one of the signing inventors signed on behalf of the non-signing inventor.

Since a proper oath or declaration was not present on filing, the late oath or declaration or filing fee surcharge of $65.00 (small entity) is due and will be charged to counsel's deposit account, No. 13-3403, as authorized on the fee transmittal sheet.

The Office is construing the address provided on the declaration as the non-signing inventor's last known address. Petitioners **must** notify the Office if this is not a correct interpretation.

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: Office of Petitions

By hand:
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
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.

DWood

Douglas I. Wood
Senior 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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OCT 18 2004

OFFICE OF PETITIONS

In re Application of	:	
Bowling and Adams	:	
Application No. 10/630,290	:	DECISION REFUSING STATUS
Filed: 30 July, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001	:	
33,212	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 13 September, 2004.

The petition is again **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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 July, 2003, with a declaration naming Michael Bowling and Phil Adams as joint inventors and signed by joint inventor Bowling and by petitioner's counsel on behalf of joint inventor Adams. The petition filed on 30 July, 2003, was dismissed on 20 August, 2004.

Petitioners' counsel again asserts that a copy of the application was sent to the non-signing inventor, but that the inventor returned the application papers along a statement stating that the non-signing inventor was refusing to sign the declaration.

A copy of the statement by which the non-signing inventor has refused to sign the declaration has now been provided, along with a declaration naming Michael Bowling as the sole inventor.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

With regards to item (2), the declaration submitted with the present renewed petition is defective in that only one inventor is named. The declaration submitted under 37 CFR 1.63 and 1.67 must contain the name, citizenship, residence, and mailing address for each inventor. Under 37 CFR 1.47(a) the Declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor.

Petitioners should provide a declaration containing the name, citizenship, residence, and mailing address for all the inventors. The signature block for the signing inventor should be signed by that inventor, while the signature block for the non-signing inventor should be left unsigned. All of the other relevant information (e.g. name, citizenship, residence, and mailing address) for the non-signing inventor must be included on the declaration.

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: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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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1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Bowling and Adams	:	
Application No. 10/630,290	:	DECISION REFUSING STATUS
Filed: 30 July, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001	:	
33,212	:	

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 1 November, 2004.

The petition is again **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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 July, 2003, with a declaration naming Michael Bowling and Phil Adams as joint inventors and signed by joint inventor Bowling and by petitioner's counsel on behalf of joint inventor Adams. The petition filed on 30 July, 2003, was dismissed on 20 August, 2004. The renewed petition filed on 13 September, 2004, was dismissed on 18 October, 2004.

The present renewed petition contains the second page of a declaration signed by joint inventor Bowling of behalf of himself and non-signing joint inventor Adams.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding 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;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

With regards to item (2), the declaration submitted with the present renewed petition is defective in that it is incomplete. Specifically, petitioners did not submit Page 1 of the USPTO declaration form with the present renewed petition. If the wording of the declaration is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.[1] The information required by 37 CFR 1.63 is not included on the oath or declaration submitted with the present petition. A complete oath or declaration in compliance with 37 CFR 1.63, 1.64, and 1.67, naming the inventive entity and signed by all of the signing inventors on behalf of themselves and the non-signing inventor(s) must be submitted with any renewed petition.

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: Office of Petitions

[1] See MPEP 602.01. The oath or declaration cannot be amended. Id.

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Bowling and Adams	:	
Application No. 10/630,290	:	DECISION ACCORDING STATUS
Filed: 30 July, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001	:	
33,212	:	

This is in response to the thrice renewed petition filed under 37 CFR 1.47(a) on 10 January, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to sign the declaration. Specifically, petitioners have shown, via the declaration of registered patent attorney Stephen J. Stark, that a copy of the application papers was sent to the non-signing inventor, Phil Adams. However, the non-signing inventor returned a letter stating his refusal to sign the declaration naming him as a joint inventor along with Michael W. Bowling.

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 Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to Technology Center Art Unit 1724 for further processing.

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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JOEL S. CARTER
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of
FECHNER et al.
Application No. 10/630,324
Filed: July 24, 2003
Attorney Docket No. 09110-US

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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 November 1, 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 February 2, 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 $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of November 1, 2004 is accepted as having been unintentionally delayed.

Since the reply in the form of an amendment is a sufficient response to the non-final rejection of November 1, 2004, the filing of a RCE is unnecessary, and its requisite fee will be credited to the deposit account authorized in the RCE Transmittal.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

The application matter is being forwarded to Technology Center Art Unit 3671.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of :
ANTICH et al. :
Application No. 10/630,330 : DECISION ON PETITION
Filed: July 30, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. UTSW:1041 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 30, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor Peter Antich, declaring that he is over the age of 65, and an accompanying driver's license, indicating Inventor Antich's date of birth is May 27, 1938. Accordingly, the above-identified application has been accorded "special" status.

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

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 3768 for action on the merits commensurate with this decision.

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

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Hong et al.	:	
Application No. 10/630,332	:	ON PETITION
Filed: July 30, 2003	:	
Attorney Docket No. TI-35165	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 20, 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 April 20, 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 2800 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

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.
10/630,345	07/29/2003	Joseph A. Zupanick	17601-043001	9309

26231 7590 06/04/2008

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

EXAMINER	
KRECK, JOHN J	

ART UNIT	PAPER NUMBER
3672	

MAIL DATE	DELIVERY MODE
06/04/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 0 2 2008

TECHNOLOGY CENTER 3600

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

In re Application of ZUPANICK, JOSEPH A.
Appl. No.:10/630,345
Filed: July 29, 2003
For: METHOD AND SYSTEM FOR ACCESSING SUBTERRANEAN DEPOSITS FROM THE SURFACE AND TOOLS THEREFOR

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed January 18, 2008 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that court documents from the *CNX Gas Corporation vs. CDX Gas, LLC*, Civil Action No. 05-1574 filed January 18, 2008, be expunged from the record. Petitioner states 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(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DH/db: 4/8/08

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JAN 14 2010

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

In re Application of ZUPANICK, JOSEPH A.
Appl. No.:10/630345
Filed: July 29, 2003
For: METHOD AND SYSTEM FOR ACCESSING SUBTERRANEAN DEPOSITS FROM THE SURFACE AND TOOLS THEREFOR

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a decision on the petitions under 37 CFR 1.59(b), filed January 18, 2008 and July 6, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

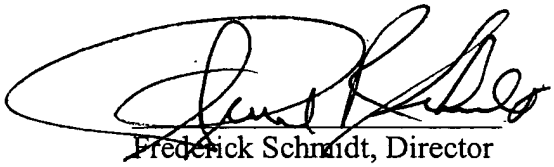
Petitioner requests that the court documents from the *CNX Gas Corporation vs. CDX Gas, LLC,* Civil Action No. 05-1574, filed January 18, 2008, be expunged from the record. Petitioner also requests that materials disclosed in the Information Disclosure Statement filed July 6, 2009, be expunged from the 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 petitions fees set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is voluminous and thus a burden for it to be returned with this decision. Petitioner has agreed to have the USPTO destroy or shred the material.

Any questions regarding this decision should be directed to Supervisory Patent Examiner David Bagnell at (571) 272-6999.



Frederick Schmidt, Director
Patent Technology Center 3600
(571) 272-5150

FS/db: 1/13/10

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OFFICE OF PETITIONS

KLAUBER & JACKSON
J. DAVID SMITH
411 CONTINENTAL PLAZA
HACKENSACK NJ 07601

In re Application of :
Yufera et al. :
Application No. 10/630,367 : DECISION REFUSING STATUS
Filed: July 30, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2429-1-024 :
Title:ENTOMOPATHOGENIC :
MICROORGANISM SPORES CARRIER AND :
METHOD FOR CONTROLLING HARMFUL
INSECTS

This is in response to the petition filed January 25, 2006 (certificate of mailing January 13, 2006), under 37 CFR. §1.47(a).

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on July 30, 2003, without an executed oath or declaration. Accordingly, on August 23, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 23, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a three (3) month extension of time was also submitted. Petitioner has submitted $130.00 towards the petition fee. However, the current petition fee is $200.00. Accordingly deposit account 11-1153 will

be charged the $70.00 difference.

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 instant petition does not satisfy requirements (1) and (2).

As to item (1), rule 47 applicant has failed to show that inventor Pallares was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors. See MPEP 409.03(d). The evidence presented only indicates that the assignment and declaration were the only documents presented. If the application papers were presented, a statement should be provided on renewed petition.

As to item (2), although petitioner has provided the last known mailing address of inventor Pallares in the petition, the declaration contains the mailing address of the assignee. A supplemental declaration or Application Data Sheet providing the last known address should be provided pursuant to 37 CFR 1.67 and 1.76.

The address on the petition differs from the correspondence 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.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Klauber & Jackson
411 Hackensack Avenue
Hackensack, New Jersey 070601

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KLAUBER & JACKSON
J. DAVID SMITH
411 CONTINENTAL PLAZA
HACKENSACK NJ 07601

In re Application of
Eduardo Primo Yufera, Mohamed Ibrahim Fahmy, Juan Munoz Pallares and Pilar Moya Sanz
Application No. 10/630,367
Filed: July 30, 2003
Attorney Docket No. 2429-1-024
Title: ENTOMOPATHOGENIC MICROORGANISM SPORES CARRIER AND METHOD FOR CONTROLLING HARMFUL INSECTS

DECISION

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

This is in response to the renewed petition under 37 CFR 1.47(a) filed May 10, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Pallares has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Juan Munoz Pallares
C/Francisco Cubells, No. 14 Bajo
46011 Valencia
Spain

In re Application of
Eduardo Primo Yufera, Mohamed Ibrahim Fahmy,
Juan Munoz Pallares and Pilar Moya Sanz :
Application No. 10/630,367 :
Filed: July 30, 2003 :
Attorney Docket No. 2429-1-024 : LETTER
Title: ENTOMOPATHOGENIC MICROORGANISM :
SPORES CARRIER AND METHOD FOR
CONTROLLING HARMFUL INSECTS :

COPY MAILED

JUN 23 2006

OFFICE OF PETITIONS

Dear Mr. Pallares :

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 C.F.R. § 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 as per 37 C.F.R. § 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, applicant (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 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).

Charlema R. Grant
Petitions Attorney
Office of Petitions

KLAUBER & JACKSON
J. DAVID SMITH
411 CONTINENTAL PLAZA
HACKENSACK NJ 07601

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Bracco Research USA
305 College Road East
Princeton NJ 08540

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Michel SCHNEIDER et al. :
Application No. 10/630,375 : ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. BR029-US-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the Notice of Non-Compliant Amendment mailed December 4, 2006, which set a shortened statutory period for reply of one (1) month. 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, 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 an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed December 4, 2006 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 appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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DEC 28 2004

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

In re Application of :
R. Paul Schaudies et al :
Serial No.: 10/630,384 : PETITION TO MAKE SPECIAL
Filed: July 30, 2003 :
Attorney Docket No.: SAIC-0062CON-1 :

This is in response to the petition filed November 1, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

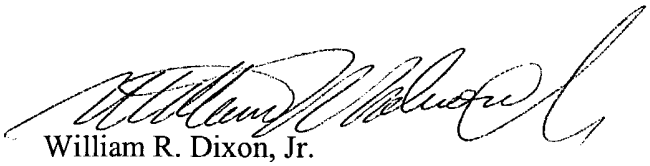
> XI. INVENTIONS FOR COUNTERING TERRORISM
> In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord Aspecial≅ status to patent applications relating to counter- terrorism inventions.
> International terrorism as defined in 18 U.S.C. 2331 includes activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping... The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. **The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.**

Applicants present reasons for making the application special, as required with respect to counterterrorism, specifically bioterrorism, activities. However, none of the claims are specifically directed to bioterrorism activities, rather the methods presented in the claims could be used for detection of any type of biological material. Applicants' affidavits with respect thereto have been carefully considered, but are not persuasive with respect to limiting the claims to bioterrorism and related activities.

Therefor the petition is **DENIED**.

The application will be acted on by the examiner in turn.

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 number571-273-8300.



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

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

MAR 21 2005

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

In re Application of	:	
R. Paul Schaudies et al	:	
Serial No.: 10/630,384	:	PETITION TO MAKE SPECIAL
Filed: July 30, 2003	:	
Attorney Docket No.: SAIC-0062CON-1	:	

This is in response to the renewed petition filed March 10, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

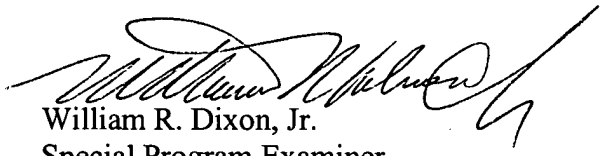
> XI. INVENTIONS FOR COUNTERING TERRORISM
> In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord Aspecial≅ status to patent applications relating to counter- terrorism inventions.
> International terrorism as defined in 18 U.S.C. 2331 includes activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping... The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. **The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.**

Applicants present reasons for making the application special, as required with respect to counterterrorism, specifically bioterrorism, activities.

Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action not inconsistent 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 571-273-8300.



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

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

AUG 22 2005

In re Application of :
RODNEY ABAIR :NOTICE OF WITHDRAWAL
Serial No. 10/630,395 : FROM ISSUE
Filed: 07/30/2003 : UNDER 37 CFR 1.313(b)
For: ADJUSTABLE HITCH AND METHOD OF USE

The above-identified application is hereby withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Lesley Morris at (571) 272-6651.

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

Woodard, Emhardt, Moriarty, McNett
And Henry, LLP
Suite 3700
111 Monument Circle
Indianapolis, IN 46204

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R. KEITH HARRISON
2139 E. BERT KOUNS
SHREVEPORT, LA 71105

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of :
Patrice Flaherty :
Application No. 10/630,402 : DECISION ON PETITION
Filed: July 30, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1066 : 37 C.F.R. § 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed on August 19, 2005, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **DISMISSED**.

In support of the petition, petition provides a statement by the attorney registered to practice stating that the use of the invention allows improved technique for collecting blood from and administering medical fluids to a patient.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

Advanced prosecution under section X is a commitment by the Office to devote extra resources to expedite the examination of inventions related to promising technology, and is reserved for inventions that directly contribute to the diagnosis, treatment, or prevention of HIV/AIDS or cancer. Inventions having only a tangential relationship to the HIV/AIDS or cancer will not, in order preserve the limited resources of the Office, be treated as special.

Neither the claims nor the specification of the instant application mention the phrases "HIV/AIDS" or "cancer." Nor is the invention focused on improvements for only those areas. Rather, the invention is directed towards improvements in technology for collecting blood devices. The invention is not, therefore, considered to be in the specific field of HIV/AIDS or cancer. Although improvements in generic blood collecting may provide a benefit, any relation to specific advances in the fields of HIV/AIDS and cancer is considered to be a tangential rather than a direct or material result of the invention.

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

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX:	(571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

The application is being forwarded to the Technology Center Art Unit 3736 for action in its regular turn.

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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KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

MAILED

JAN 13 2006

TECHNOLOGY CENTER 2100

In re Application of: Raymond E. Ozzie)
Application No. 10/630,472)
Filed: July 30,2003)
For: METHOD AND APPARATUS FOR) **DECISION ON REQUEST FOR**
DESIGNATING ENDPOINTS IN A) **WITHDRAWAL AS ATTORNEY**
COLLABORATIVE COMPUTER SYSTEM)
TO FACILITATE MAINTAINING DATA)
CONSISTENCY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed June 23, 2005.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on November 9, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Wolf Greenfield (Microsoft Corporation) as the attorneys of record of the instant application. The Power Of Attorney of November 9, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Wolf Greenfield (Microsoft Corporation).

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Dale Hall for

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

cc: Wolf, Greenfield & Sacks, P.C.

WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

SPE: A. Kashnikow

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/14/02

TO SPE OF : ART UNIT 3993

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/638,473 Patent No.: 7165548

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: _____

A Kashnikow — SPE

3993 — Art Unit

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Paper No.

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

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Patent No. 7,165,548	:	
Deem et al.	:	LETTER REGARDING
Issue Date: January 23, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/630,473	:	and
Filed: July 29, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 38349-0103H	:	CERTIFICATE OF CORRECTION

This letter is in response to the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(d)" filed March 23, 2007.

The request for correction of the patent term adjustment under 37 CFR §1.705(d) is **GRANTED**.

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 seventy-seven (77) days.

On January 23, 2007, the above-identified application matured into U.S. Patent No. 7,165,548. The instant request for reconsideration filed March 23, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

Patentees assert that there should be no applicant delay for a "Miscellaneous Incoming Letter" entered on September 8, 2006. Patentees note that the only papers filed that day were a good faith letter regarding patent term adjustment and the issue fee transmittal.

Patentees are correct that the 120 day reduction is not warranted. A review of the record confirms that the reduction of 120 days was entered for the filing on September 8, 2006 of the Letter Regarding Patent Term Adjustment.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

In view thereof, the patent should have issued with a revised patent term adjustment of seventy-seven (77) days.

The paper filed September 8, 2006 did not require the $200.00 fee set forth in 37 CFR 1.18(e). As such, no fee is required on this request for reconsideration of the entry of a reduction for the filing of the no fee paper. The fee charged has been refunded to petitioner's Deposit Account as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seventy-seven (77) 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 : 7,165,548 B2

DATED : January 23, 2007

INVENTOR(S) : Deem et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0" and insert – by 77 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

COPY MAILED
NOV 09 2006

In re Application of	:	
Deem et al.	:	
Application No. 10/630,473	:	LETTER REGARDING
Filed: July 29, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 38349-0103H	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT PURSUANT TO COMMENT 43 OF THE FINAL RULE" filed September 8, 2006.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED.**

Applicants request review of the patent term adjustment calculations as it pertains to the Office's withdrawal of issuance, after payment of the Issue Fee, and the subsequent mailing of Interview Summary and second Notice of Allowance.

As stated in comment 43 of the Final Rule, practitioners are under a duty to disclose to the Office an error in their favor in the calculation of patent term adjustment. For example, if a registered practitioner receives determination that the application is eligible for a 1,500 day adjustment and the practitioner is not sure exactly what the adjustment should be, but believes that the adjustment should be 1,000 days, the practitioner does have a duty to disclose the error to the Office, regardless of whether the issue fee is paid using the Office-generated form (PTOL-85B) or an attorney-generated equivalent. In order to comply with this duty and where the correct adjustment is thought to be less than indicated by the Office, an application for term adjustment under 1.705(b) need not be filed. Instead, a letter could be filed with the issue

fee payment, indicating that the term adjustment is thought to be longer than appropriate.

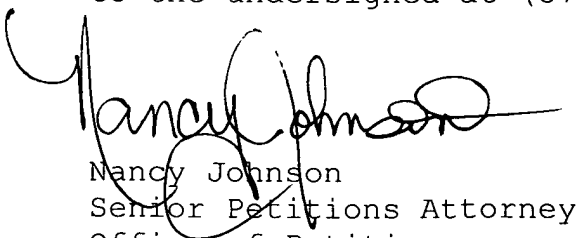
Practitioner's disclosure has been considered. However, the circumstances of the withdrawal from issuance do not warrant reduction of the patent term adjustment. By Notice mailed March 20, 2006, the Office withdrew the application from issuance under 37 CFR 1.313 to permit reopening of prosecution, due to newly discovered references. On June 19, 2006, the Office mailed a new Notice of Allowance and Interview Summary. Such action by the Office does not warrant reduction of the patent term adjustment. Further, with respect to this event, the record does not indicate that applicant took any action warranting reduction of patent term adjustment.

In view thereof, it is concluded that the determination of PTA at the time of the mailing of the notice of allowance of ZERO (0) days is correct.

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 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.

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 adjusted PAIR calculation

PTA Calculations for Application: 10/630473			
Application Filing Date:	07/29/2003	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	101
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	06/19/2006	MAIL NOTICE OF ALLOWANCE			
63	06/19/2006	MAIL EXAMINER'S AMENDMENT			
62	06/19/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
61	06/19/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	03/21/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	03/20/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
58	06/14/2006	EXAMINER'S AMENDMENT COMMUNICATION			
57	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
56	03/20/2006	ISSUE REVISION COMPLETED			
55	03/23/2006	FINISHED INITIAL DATA CAPTURE			
54	03/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	03/20/2006	NOTICE OF ALLOWABILITY			
52	03/20/2006	DATE FORWARDED TO EXAMINER			
51	03/20/2006	WITHDRAWAL OF NOTICE OF ALLOWANCE			
50	03/17/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	03/01/2006	ISSUE FEE PAYMENT VERIFIED			
48	03/01/2006	ISSUE FEE PAYMENT RECEIVED			
47	02/27/2006	WORKFLOW - QUERY REQUEST - FINISH			
46	02/06/2006	MAILING CORRECTED NOTICE OF ALLOWABILITY			
45	02/03/2006	CORRECTED NOTICE OF ALLOWABILITY			
44	01/19/2006	PUBS CASE REMAND TO TC			

43	01/26/2006	WORKFLOW - QUERY REQUEST - BEGIN			
42	12/06/2005	EXPORT TO INITIAL DATA CAPTURE			
41	12/01/2005	MAIL NOTICE OF ALLOWANCE			
40	11/29/2005	ISSUE REVISION COMPLETED			
39	11/29/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	11/28/2005	NOTICE OF ALLOWABILITY			
37	11/28/2005	DATE FORWARDED TO EXAMINER			
36	11/14/2005	RESPONSE AFTER NON-FINAL ACTION		5	35
35	08/09/2005	MAIL NON-FINAL REJECTION			
34	08/08/2005	NON-FINAL REJECTION			
33	02/11/2005	REFERENCE CAPTURE ON IDS			
32	02/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	06/01/2005	DATE FORWARDED TO EXAMINER			
30	05/25/2005	RESPONSE AFTER NON-FINAL ACTION		86	26
29	05/25/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	09/17/2004	REFERENCE CAPTURE ON IDS			
27	09/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		10	23
26	11/30/2004	MAIL NON-FINAL REJECTION			
25	11/29/2004	NON-FINAL REJECTION			
24	09/27/2004	DATE FORWARDED TO EXAMINER			
23	09/07/2004	RESPONSE AFTER NON-FINAL ACTION			
22	09/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
20	06/16/2004	MAIL NON-FINAL REJECTION			
19	06/14/2004	NON-FINAL REJECTION			
18	04/05/2004	MISCELLANEOUS INCOMING LETTER			
17	04/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	03/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	03/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	11/18/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	11/18/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

12	07/29/2003	NEW OR ADDITIONAL DRAWING FILED			
10	10/24/2003	APPLICATION RETURN FROM OIPE			
9	10/24/2003	APPLICATION RETURN TO OIPE			
8	10/24/2003	APPLICATION RETURN FROM OIPE			
7	10/24/2003	APPLICATION RETURN TO OIPE			
6	10/23/2003	APPLICATION DISPATCHED FROM OIPE			
5	10/24/2003	APPLICATION IS NOW COMPLETE			
4	10/13/2003	CASE CLASSIFIED BY L&R			
3	10/13/2003	CLEARED BY OIPE CSR			
2	09/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FT LAUDERDAL, FL 33322

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
Namm et al. :
Application No. 10/630477 : ON PETITION
Filing Date: 07/30/2003 :
Attorney Docket Number: :
CM05919J :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 July 21, 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 October 22, 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.

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

This application is being referred to Technology Center AU 2618 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

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QUALCOMM INCORPORATED
ATTN: PATENT DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Averbuj et al.	:	
Application No. 10/630,480	:	DECISION ON PETITION
Filed: 29 July, 2003	:	
Attorney Docket No. 030198	:	

This is a decision in reference to the communication filed on 28 January, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including 11 sheets of drawings, be accorded a filing date of 29 July, 2003.

The petition is granted.

On 29 July, 2003, the application was filed.

On 24 September, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. An executed oath or declaration in accordance with 37 CFR 1.63 was also required. A two (2)-month period for reply was set.

In response, on 28 January, 2005, the present petition and a copy of 11 sheets of drawings, were filed. Petitioners argue that 11 drawing sheets were filed with the other application papers on 29 July, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office-date stamp of 07/29/03 containing the above-identified application number, and identifies the application by the first named inventor's last name and attorney docket number, and acknowledges receipt of, *inter alia*, "formal drawings in 11 pages". Petitioners request

that the application, including the 11 sheets of drawings, be accorded a filing date of 29 July, 2003.

A review of the record reveals that no sheets of drawings received on 29 July, 2003, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 29 July, 2003, included 11 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 11 sheets of drawings, is entitled to a filing date of 29 July, 2003.

In view of the above, the petition is granted. As the petition was necessitated by an error on the part of the Office, no petition fee is due and none has been charged.

The application will be processed with the copy of the 11 sheets of drawings supplied on 28 January, 2005, as a part of the original disclosure.

The Notice of Incomplete Nonprovisional Application mailed on 24 September, 2004, is withdrawn to the extent that it stated that the application had been deposited without drawings. Additionally, petitioners should note that an extension of time is not appropriate when an application is incomplete. As such, the extension of time filed on 28 January, 2005, will be credited to counsel's deposit account, No. 17-0026.

Receipt of the declaration and late-filing surcharge on 28 January, 2005, is acknowledged.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 29 July, 2003, using the application papers filed on that date, and the copy of 11 sheets of drawings supplied with the present petition, and for an indication in Office records that 11 sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

/DIWood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
David W. Plank, et. al.	:	
Application No. 10/630,489	:	ON PETITION
Filed: July 30, 2003	:	
Attorney Docket No. 6323US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2005, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed May 5, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1761.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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DENNIS R SMALLEY
MICROFABRICA INC
1103 W. ISABEL ST.
BURBANK CA 91506

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AUG 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Cohen et al. :
Application No. 10/630,513 : ON PETITION
Filed: 29 July, 2003 :
Atty Docket No. P-US004-B-SC :

This is a corrected decision on the petition filed 3 August, 2005, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

The application became abandoned on 20 July, 2005, for failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on 19 April, 2005, which set a

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

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

(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)).

three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition fee and issue and publication fees will be charged to counsel's deposit account, No. 50-2123, as authorized on the fee(s) transmittal sheet filed with the present petition.

The application will be referred to the Publishing Division for processing into a patent.

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

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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis TN 38132

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Sand, et al. :
Application No. 10/630,519 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. **41914.329/P0031497.19** :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2009, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

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.

The instant pending application was filed on July 30, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning the instant application is entitled to the benefit 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. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 3700, Art Unit 3733 for appropriate action on the amendment filed April 27, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/630,519	07/30/2003	3733	813	41914.329 / P0031497.19	1	1

CONFIRMATION NO. 9248

CORRECTED FILING RECEIPT

46333
Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Date Mailed: 08/13/2009

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

Applicant(s)

Paul M. Sand, San Carlos, CA;
Mark A. Reiley, Piedmont, CA;
Arie Scholten, Manteca, CA;
Robert M. Scribner, Niwot, CO;
Michael L. Reo, Redwood City, CA;

Assignment For Published Patent Application

Kyphon Inc.

Power of Attorney: The patent practitioners associated with Customer Number 000046333

Domestic Priority data as claimed by applicant

This application is a DIV of 09/893,298 06/27/2001 PAT 6,645,213
which claims benefit of 60/214,666 06/27/2000
This application 10/630,519
is a CIP of 09/496,987 02/02/2000 PAT 6,719,761
which is a DIV of 08/910,809 08/13/1997 PAT 6,048,346

Foreign Applications

If Required, Foreign Filing License Granted: 10/27/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/630,519**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **
Title

Systems and methods for injecting flowable materials into bones

Preliminary Class

606

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

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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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OFFICE OF PETITIONS

In re Application of :
Nelson, et al. :
Application No. 10/630,526 :
Filed: July 30, 2003 :
Attorney Docket No. PC9668-C2-03-DCL :

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 2003. The petition was recently forwarded to the Office of Petitions for consideration.

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

Petitioner has shown that non-signing inventor Gallopo has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the

The petition fee in effect on July 30, 2003 of $130 has been charged to Deposit Account No. 16-1445, as authorized.

The matter is being forwarded to the Office of Patent Publications for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DR ANDREW GALLOPO
4B-A FOXWOOD DR
MORRIS PLAINS NJ 07950

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Dennis G. A. Nelson, Andrew R. Gallopo :
Application No. 10/630,526 :
Filed: July 30, 2003 :
Title: Clear Oral Compositions :
Containing Potassium Salt :
:

LETTER

Dear Dr. Gallopo:

You are named as a joint inventor in the above-identified United States patent reissue application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Darryl C. Little
201 Tabor Rd
Morris Plains NJ 07950
phone: 973-385-4401

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

Paper Dated 1/05/05

In re Application of: :
Romain McNelis et al. :
Serial No. 10/630,534 : **WITHDRAWAL FROM ISSUE**
Filed: July 29, 2003 : *37 CFR 1.313*
For: Item Holder :

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 Issue and Publication Fee 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 action.

John J. Love
Director
Patent Examining Technology Center 3600

TIMOTHY W. LOHSE
DLA PIPER RUDNICK GRAY CARY USA, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/21/2010

Applicant	: Sandeep Bhatia	: DECISION ON REQUEST FOR
Patent Number	: 7584392	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/630,537	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **605** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of
Miyazono et al.
Application No. 10/630,555
Filed: July 30, 2003
Attorney Docket No. NY- LUD 5298.5-DIV-US

: DECISION ON PETITION

This is a decision on the petition filed March 28, 2007, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed October 11, 2006 be withdrawn

The petition is **Dismissed**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to Art Unit 1646.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended [cancelled] to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner disagrees with petitioners' assertion.

Pursuant to petitioner's request deposit account no. 50-0624 will be charged the $400.00 petition fee.

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

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema R. Grant

Charlema R. 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
www.uspto.gov

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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DEC 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Miyazono et al. :
Application No. 10/630,555 : DECISION ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. NY-LUD 5298.5 DIV-US :

This is a decision on the petition filed September 17, 2007 requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed October 11, 2006 be withdrawn The $400.00 petition fee has been received.

The petition is granted.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended [cancelled] to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

This application is being forwarded to Art Unit 1646 for further processing.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema Grant
Petitions Attorney
Office of Petitions

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of :
Miyazono, et al. : LETTER REGARDING
Application No. 10/630,555 : PATENT TERM ADJUSTMENT
Filed: July 30, 2003 :
Atty. Dkt. No.: NY-LUD 5298.5-DIV-US :

This is a decision on the "APPLICATION FOR PATENT TERM EXTENSION," filed February 29, 2008. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 597 days to 668 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed January 8, 2008, stated that the patent term adjustment (PTA) to date is 597 days. The instant application for patent term adjustment and issue fee payment were timely filed March 3, 2008.

However, prior to a decision on the application for patent term adjustment being rendered, on July 31, 2008, the application was withdrawn from issue.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on February 29, 2008.

Technology Center AU 1646 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for further processing.

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

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

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OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of
Miyazono, et al.
Application No. 10/630,555
Filed: July 30, 2003
Atty. Dkt. No.: NY-LUD 5298.5-DIV-US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "RENEWED APPLICATION FOR PATENT TERM EXTENSION," filed December 24, 2008. This matter is properly treated pursuant to 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Determination of Patent Term Adjustment mailed December 19, 2008 indicated that the application is entitled to adjustment of 597 days. Applicant argues that the adjustment of 575 days is in error.

A review of the record reveals that the adjustment of 575 was made in error. The restriction requirement mailed April 28, 2006 was vacated and a new non-final Office action mailed July 12, 2006. Thus, in accordance with 37 CFR 1.702(a)(1), the application is entitled to an adjustment of 650 days. The adjustment commenced October 1, 2004, the day after the date that is 14 months after the date that the application was filed, and ended July 12, 2006, the date that the non-final Office action was mailed. See, 37 CFR 1.703(a)(1).

Further review of the application history reveals an error in the reduction of 71 days in connection with the amendment filed June 7, 2007. The amendment filed June 7, 2007 did not place the application in condition for allowance, as indicated in the Advisory Action mailed August 6, 2007. Accordingly, the adjustment is properly reduced 92 days, and not 71 days, in accordance with 37 CFR 1.704(b). The reduction commenced March 29, 2007, the day after the date that is three months after the final Office action was mailed, and ended June 28, 2007, the date that the Notice of Appeal was filed.

The adjustment of 93 days accorded in connection with the mailing of the Notice of Allowance on January 8, 2008 is in error. The amendment filed June 7, 2007 failed to place the application in condition for allowance. Applicants filed a Notice of Appeal on June 28, 2007 and subsequently filed an amendment on September 17, 2007. The amendment filed September 17, 2007 placed the application in condition for allowance which resulted in the mailing of the Notice of Allowance on January 8, 2008, which was within four months of the date of receipt of

the amendment filed September 17, 2007. Thus, the adjustment 93 days under 37 CFR 1.702(a)(2) is not warranted.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 558 days (adjustment of 650 days less reduction of 92 days).

Applicant is further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Monday
Date: 8/17/2009

PALM INTRANET

Time: 15:28:54

PTA Calculations for Application: 10/630555			
Application Filing Date:	07/30/2003	PTO Delay (PTO):	668
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	71
Post-Issue Petitions:	0	Total PTA (days):	558
PTO Delay Adjustment:	-39		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		93	
102	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	650		
101	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		575	
100	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		75	
99	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	75		
98	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
97	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	71		
95	08/17/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
78	12/19/2008	MAIL NOTICE OF ALLOWANCE			
77	12/19/2008	MAIL EXAMINER'S AMENDMENT			
76	12/19/2008	MAIL-PETITION DECISION - DISMISSED			
75	12/19/2008	PETITION DECISION - DISMISSED			
74	09/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	09/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
69	09/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
68	09/15/2008	NOTICE OF ALLOWABILITY			
66	09/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
65	08/13/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
64	07/31/2008	DATE FORWARDED TO EXAMINER			
63	07/31/2008	WITHDRAWAL OF NOTICE OF ALLOWANCE			
60	03/03/2008	ISSUE FEE PAYMENT VERIFIED			
59	02/29/2008	PETITION ENTERED			
58	03/03/2008	ISSUE FEE PAYMENT RECEIVED			

57	02/20/2008	PUBS CASE REMAND TO TC			
56	02/22/2008	WORKFLOW - QUERY REQUEST - BEGIN			
54	01/22/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
53	01/11/2008	EXPORT TO INITIAL DATA CAPTURE			
52	01/08/2008	MAIL NOTICE OF ALLOWANCE	93		35
51	01/07/2008	ISSUE REVISION COMPLETED			
50	01/07/2008	DOCUMENT VERIFICATION			
49	01/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	01/07/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
47	01/07/2008	NOTICE OF ALLOWABILITY			
45	12/31/2007	MAIL-PETITION DECISION - GRANTED			
44	12/31/2007	PETITION DECISION - GRANTED			
41	09/17/2007	PETITION ENTERED			
40	08/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
39	08/03/2007	ADVISORY ACTION (PTOL-303)			
38	06/28/2007	NOTICE OF APPEAL FILED			
37	06/18/2007	MAIL-PETITION DECISION - DISMISSED			
36	06/14/2007	DATE FORWARDED TO EXAMINER			
35	06/07/2007	AMENDMENT AFTER FINAL REJECTION		71	30
34	06/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	03/28/2007	PETITION ENTERED			
32	04/03/2007	DATE FORWARDED TO EXAMINER			
31	03/27/2007	AMENDMENT AFTER FINAL REJECTION			
30	12/28/2006	MAIL FINAL REJECTION (PTOL - 326)			
29	12/23/2006	FINAL REJECTION			
28	10/18/2006	PARALEGAL TD ACCEPTED			
27	10/11/2006	TERMINAL DISCLAIMER FEE PAID			
26	10/17/2006	DATE FORWARDED TO EXAMINER			
25	10/11/2006	RESPONSE AFTER NON-FINAL ACTION			
24	07/12/2006	MAIL NOTICE OF WITHDRAWN ACTION			
23	07/12/2006	MAIL NON-FINAL REJECTION			
22	07/10/2006	NON-FINAL REJECTION			
21	07/10/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
20	05/04/2006	MISCELLANEOUS INCOMING LETTER			

19	04/28/2006	MAIL RESTRICTION REQUIREMENT	575		-1
18	04/27/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
17	01/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	11/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	11/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/01/2004	PRELIMINARY AMENDMENT			
12	07/30/2003	PRELIMINARY AMENDMENT			
10	07/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
9	12/15/2003	APPLICATION IS NOW COMPLETE			
8	12/12/2003	APPLICATION DISPATCHED FROM OIPE			
7	12/15/2003	APPLICATION IS NOW COMPLETE			
6	12/10/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	07/30/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	10/15/2003	CASE CLASSIFIED BY OIPE			
3	10/15/2003	CLEARED BY OIPE CSR			
2	09/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
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Mail Date: 04/21/2010

Applicant	: Kohei Miyazono	: DECISION ON REQUEST FOR
Patent Number	: 7592428	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/630,555	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Beyer, Weaver & Thomas LLP
P.O. Box 778
Berkeley, CA 94704-07780

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JUL 22 2004

Technology Center 2100

In re Application of:
Livio RICIULLI
Application No. 10/630,559
Filed: July 30, 2003
For: ON-DEMAND OVERLAY ROUTING FOR COMPUTER-BASED COMMUNICATION NETWORK

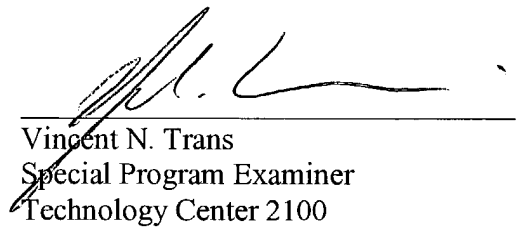
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 1, 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.

There is no indication that the applicant or patent owner has been notified of this withdrawal of the attorney. Accordingly, the request is **DENIED.**

Further communications will continue to be addressed to the address above.



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

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HOFFMANN & BARON, LLP
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FEB 14 2006

OFFICE OF PETITIONS

In re Application of :
Scott Smith :
Application No. 10/630,562 : DECISION ON PETITION
Filed: July 30, 2003 :
Docket No. 760-12 DIV/CON :

This is a decision on the petition, filed March 30, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On July 28, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. On October 12, 2004 (certificate of mailing dated October 7, 2004), applicant filed a "Response Pursuant to 37 CFR 1.111." On October 22, 2004, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period to reply. On November 1, 2004 (certificate of mailing dated October 28, 2004), applicant filed a "Response to Notice of Non-Compliant Amendment." On February 1, 2005, the Office mailed a Notice of Abandonment. The Notice stated that the application was abandoned because applicant failed to file a petition for an extension of time with the appropriate fee pursuant to 37 CFR 1.17.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

In the present petition, applicant asserted that the application was not abandoned and requested that the Office withdraw the holding of abandonment. Specifically, applicant averred that a petition for an

extension of time was not required because the Notice of Non-Compliant Amendment provided a reply period of one month pursuant to 37 CFR 1.135(c). Furthermore, applicant stated he submitted a timely response to the Notice, containing the required signature.

Upon a review of the record, applicant's assertions are correct. The amendment filed on October 12, 2004, was unsigned. Therefore, the Office mailed a Notice of Non-Compliant Amendment on October 22, 2004. Because the non-compliant amendment was in response to a nonfinal Office action and appeared to be a *bona fide* attempt to reply, applicant was given an extendable one-month time period from the mailing of the Notice to re-submit the corrected section to avoid abandonment (*i.e.* until November 22, 2004). Accordingly, applicant's "Response to Notice of Non-Compliant Amendment" of November 1, 2004 (certificate of mailing dated October 28, 2004), was filed timely.

The petition to withdraw the holding of abandonment is **granted**. The Office has concluded that the Notice of Abandonment was mailed in error and hereby withdraws the holding of abandonment. The application is restored to pending status in view of the fact that a response was timely filed and received in the USPTO on November 1, 2004.

This matter is being referred to Technology Center Art Unit 3738.

Telephone inquiries 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Scott SMITH :
Application No. 10/630,562 :
Filed: July 30, 2003 :
Attorney Docket No. **S63.2N-14369-US03** :

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 17, 2009.

The request is **DISMISS** as moot.

A review of the file record indicates that the power of attorney to **HOFFMAN & BARON, LLP** has been revoked by the assignee of the patent application on April 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **VIDAS, ARRETT & STEINKRAUS, P.A.**
6640 SHADY OAK ROAD, SUITE 400
EDEN PRAIRIE, MN 55344

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Paper No. 070705

JUL 8 2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of:
Henry C. Coles, et al.
Serial No.: 10/630,565
Filed: July 30, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed June 1, 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.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any 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 Lynn Feild at (571) 272-2092.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/29/09 Paper No.: —

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/630586 Patent No.: 7468714B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Ref. Information

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 2629
SPE **Art Unit**

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

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MAY 11 2005

OFFICE OF PETITIONS

Applicant: Stickler et al.
Appl. No.: 10/630,589
Filing Date: July 29, 2003
Title: SYSTEMS AND METHODS FOR MID-STREAM POSTAGE ADJUSTMENT
Attorney Docket No.: 8049.0923
Pub. No.: US 2004/0122779 A1
Pub. Date: June 24, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 30, 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

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United States Patent and Trademark Office
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MAR 23 2006

Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Yuichi YAGAWA
Application No. 10/630,595
Filed: July 29, 2003
For: DATABASE QUERY OPERATIOINS
USING STORAGE NETWORKS

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on January 5, 2006.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have 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
571-272-3595

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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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MAR 3 1 2008

In re Application of :

DUMAS, David P. :
Application No. 10/630,628 : DECISION ON PETITION
Filed: July 29, 2003 : TO WITHDRAW
Attorney Docket No. **66788-036** : 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 27, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID P. DUMAS**
7572 MONA LANE
SAN DIEGO, CA 92130

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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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MAR 3 1 2008

In re Application of

DUMAS, David P.
Application No. 10/630,628
Filed: July 29, 2003
Attorney Docket No. **66788-036**

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 13, 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 Deborah Cadena on behalf of all attorneys of record who are associated with customer No. 44048. All attorneys/agents associated with the Customer Number 44048 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 David Dumas at the address indicated below.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID P. DUMAS**
7572 MONA LANE
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Jeffrey Jay Rooney	: DECISION ON REQUEST FOR
Patent Number	: 7590764	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/630,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **8** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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OFFICE OF PETITIONS

In re Application of	:	
Decker, Stephen Edward	:	
Application No. 10/630,639	:	ON PETITION
Filed: July 29, 2003	:	
Attorney Docket No. 58551-8001.US01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 16, 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 under 37 CFR 1.114; (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.

A copy of the Notice of Acceptance of Power of Attorney is also enclosed.

This matter is being referred to Technology Center 2100 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

Enclosure: Notice of Acceptance of Power of Attorney

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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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NOV 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Jeffery Steven Beck et al :
Application No. 10/630,647 : DECISION GRANTING FILING
Filed: July 29, 2003 : DATE OF **JULY 29, 2003**
Attorney Docket No. 10030328-1 :

This is a decision on the petition filed July 6, 2004, under 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of July 29, 2003.

The petition is **granted**.

The application was deposited on July 29, 2003. However, on June 2, 2004, the Office of Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating that the application was deposited without drawings.

In response, on July 6, 2004, the instant petition, a declaration of Ms. Donna Zimmerman with Appendices A-D, and a copy of four (4) sheets of drawings to include Figures 1-6 as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of four (4) sheets of drawings on July 29, 2003. A review of the application file indicates the four (4) sheets of drawings are missing.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that the drawings (4 sheets) were in fact present on filing, the Notice mailed June 2, 2004 is vacated.

Since the drawings cannot be located in the Office, the copy of the drawings supplied on **July 6, 2004** will be used for processing and examination purposes.

The petition fee of $130.00 submitted with the instant petition is being credited to deposit account no. 07-1897 as requested.

Additionally, the spelling of the first named inventor, **Jeffery Steven Beck** has been corrected as authorized.

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.

This matter is being referred to the Office of Initial Patent Examination Division for processing with a filing date of **July 29, 2003**, and using the drawings (4 sheets Figures 1-6) supplied on July 6, 2004, and with an indication that four (4) sheets of drawings were included on filing and for mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (571) 272-3208.

Christina Partera Donnell for

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
GRAYBEAL JACKSON HALEY LLP
BRYAN A SANTARELLI
155-108TH AVENUE N.E., STE. 350
BELLEVUE, WA 98004-5973

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of SUTOH et al	:	
Application No.: 10/630,707	:	DECISION ON PETITION
Filing Date: July 31, 2003	:	FOR ACCELERATED
For: DATA CONTROL METHOD FOR	:	EXAMINATION UNDER
DUPLICATING DATA BETWEEN	:	M.P.E.P. §708.02(VIII)
COMPUTER SYSTEMS	:	

This is a decision on the petition filed November 10, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §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. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

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

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

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

Because the petition filed November 10, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of :
Pollack, Jack :
Application No. 10/630,739 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 2001-1179-1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 22, 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 March 8, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 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 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

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of
Sun et al.
Application No. 10/630,763
Filed: July 31, 2003
For: AMINOALKYL-SUBSTITUTED ARYL COMPOUNDS AND THEIR USE AS SODIUM CHANNEL BLOCKERS
Attorney Docket No: 1861.1460001/JMC/DAK
Pub. No.: US 2004/0116415 A1
Pub. Date: June 17, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), filed on August 13, 2004 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

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]

The instant request also includes a mistake that is not the fault of the Office, which will not be corrected by a corrected publication by the Office.

The error mentioned in claim 11 with printing "R_8" as "R_9"will not be corrected as requested by applicant as the text of the subscript on the page is very small and in such a poor quality that the error is due to the quality of the text. Some of the text in the application is very small, which makes it blurry and not clear, which also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical

[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).

character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 703-872-9306 or after July 15, 2005, 571-273-8300

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

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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

MAR 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Kyung-geon, Lee, et al. :
Application No. 10/630,774 : DECISION ON PETITION TO
Filed: July 31, 2003 : MAKE SPECIAL
For: INFORMATION STORAGE MEDIUM AND METHOD OF RECORDING AND/OR REPRODUCING WITH RESPECT TO THE MEDIUM :

This is a decision on the petition filed July 31, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to comply with requirement (5) above. The petition provides a detailed discussion of how the claimed subject matter is patentable over references discussed in Attachment A and further states that the petition requirements are met in that "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". Also, in Attachment A applicant states "A copy of each of the below references is provided". However, a review of the file record only finds that copies of the two non-patent literature references (DRX-510 UL and DRU-510A) have been provided. Copies of the other relevant references have not been provided in the instant application.

Accordingly, the petition is **DENIED**.

BEST AVAILABLE COPY

Should applicant desire reconsideration of this decision, he/she should supplement this petition with copies of all the missing prior art referenced in the petition. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

The application file will be returned to central files repository to await action in due course.

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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

MAY 03 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Kyung-geon, Lee, et al. :
Application No. 10/630,774 :
Filed: July 31, 2003 :
For: INFORMATION STORAGE MEDIUM AND METHOD OF RECORDING AND/OR REPRODUCING WITH RESPECT TO THE MEDIUM :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Response to Denial of Petition to Make Special filed March 24, 2004 which is being treated as a request for reconsideration of the petition decision mailed on March 19, 2004.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The response submitted March 24, 2004 provides a copy of a date-stamped postcard which evidences receipt by the USPTO of each of the references submitted with the original petition filed on July 31, 2003. Furthermore, a review of the electronic images for the file finds that the images of all of the cited references filed with the original petition are now of record. Therefore, it is presumed that all of the references were originally submitted, but some were lost or misplaced from the file. The Office sincerely apologizes for the inconvenience to applicant. The petition is deemed to meet the requirements set forth above.

Accordingly, the petition is **GRANTED**.

BEST AVAILABLE COPY

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 action in its turn.

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

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COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/630,785	07/31/2003	David R. Kerluke	12726

CONFIRMATION NO.
7879

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

Date Mailed: January 26, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

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

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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Paper No. None

Felix J. D' Ambrosio
JONES, TULLAR & COOPER, P.C.
P.O. Box 2266 Eads Station
Arlington VA 22202

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FEB 23 2004
OFFICE OF PETITIONS

In re Application of :
Miroslaw Alznauer et al. :
Application No. 10/630,795 : DECISION ON PETITION
Filed: July 31, 2003 :
Title: CABLE BUSHING :

This is a decision on the petition filed November 10, 2003, requesting that a "Notice of Incomplete Nonprovisional Application" mailed October 28, 2003, in the above-identified application be withdrawn and said application be accorded a filing date of July 31, 2003.

The application was deposited on July 31, 2003 without drawings. On October 28, 2003, the Office of Initial Patent Examination, (OIPE) sent a Notice of Incomplete Nonprovisional Application (Notice), setting forth that the application appeared to have been deposited without drawings. The Notice indicated that a filing date had not been accorded, and that a filing date would be accorded upon the depositing of drawings.

In response, on November 10, 2003, Petitioner filed the present petition. The petition is further accompanied by the petition fee, four (4) sheets of drawings, and a copy of applicants' postcard receipt acknowledging receipt of "four (4) sheets drawings" in the United States Patent and Trademark Office (Office) on July 31, 2003. Applicants request that the application, including four (4) sheets of drawings be accorded a filing date July 31, 2003.

Upon review of the record, the above-mentioned drawing sheets have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 31, 2003 included four (4) sheets of drawings, and the drawing sheets containing Figures one through four (1-4) were subsequently misplaced in the Office.

Therefore, the application, including four (4) sheets of drawings, was complete on filing and entitled to a filing date of July 31, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed October 28, 2003, was sent in error, and is hereby **VACATED**. Therefore, no petition fee is required. If the petitioner wishes to have the $130.00 petition fee refunded, he should submit a request for refund to the Office of Finance[1]. A copy of this decision should accompany any such request.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 31, 2003, using the original application papers filed on that date, as well four (4) sheets of drawings, submitted with the instant petition.

It is noted that on page one of the petition, Petitioner states that a newly executed declaration will be submitted in the near future. Petitioner is reminded that a declaration is not required to accompany the submission of drawings which are merely copies of that which has already been submitted.

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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1 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 16 2005

OFFICE OF PETITIONS

Applicant: Sun et al.
Appl. No.: 10/630,814
Filing Date: July 31, 2003
Title: ARYL SUBSTITUTED HYDANTOIN COMPOUNDS AND THEIR USE AS SODIUM CHANNEL BLOCKERS
Attorney Docket No.: 1861.1450001/JMC/JSL
Pub. No.: US 2004/0097569 A1
Pub. Date: May 20, 2004

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on July 20, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains an error on page 13, claim 21, wherein "R_4" is misprinted as "F_4."

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

The error cited by Applicant is an Office error, but it is not a material Office mistake under 37 CFR 1.221(b). With respect to misprinting of the symbol in the phrase "R_3 and R_4," as "R_3 and F_4"in dependent claim 21, the symbol is used several times in the preceding claims and following claims and it is clear from the specification and claims that the symbol is "R_3 and R_4." The mistake is a minor typographical error, which does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

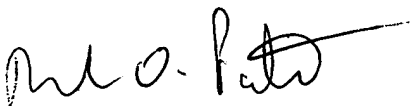
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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

By facsimile: 703-872-9306

Inquires concerning this communication should 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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Naoya Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7593421	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/630,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

MAY 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Kyung-geun Lee, et al.
Application No. 10/630,834
Filed: July 31, 2003
For: OPTICAL INFORMATION STORAGE MEDIUM AND METHOD OF RECORDING INFORMATION THEREON

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 31, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. This decision is also responsive to the communication filed April 9, 2004 requesting entry of the petition to make special filed on July 31, 2003.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

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

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Paper No.

Oliff & Berridge, PLC
P. O. Box 19928
Alexandria, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Ronald D. House, et al. :
Application No. 10/630,863 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 112226 :

This is in response to the petition under 37 CFR 1.47(a), filed July 31, 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 the Office of Initial Patent Examination.

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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Mr. Gordon W. Jim
502 Leslie Drive
Noble, OK 73068

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In re Application of
Ronald D. House; David A. Eck; Alan J. Newton; Lanny D. Smith; Steven L. Whistler; Trung T. Nguyen; James C. Bieber; Donald B. Ayler; and Gordon W. Jim
Application No. 10/638,863
Filed: July 31, 2003
For: MULTI-FUNCTION IMAGE FORMING DEVICE WITH BUILD-IN READ/WRITE CD UNIT

Dear Mr. Jim:

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: Oliff & Berridge, PLC
P. O. Box 19928
Alexandria, VA 22320

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Mailed: 10/23/06

pjr
Paper Number _____

In re application of :
Balthes, Garry E. : DECISION ON
Serial No.: 10/630, 875 : PETITION
Filed: July 30, 2003 :
For: Laminated Composition For A Headliner And
Other Applications :

This is a response to the REQUEST UNDER 37 C.F.R. 1.181 TO HAVE THE EXAMINER OF RECORD ENTER AND CONSIDER THE AFFIDAVITS FILED May 10, 2006 and August 31, 2006. The request asks that the denial of entry of the first affidavit, as set forth in the Advisory Action mailed May 24, 2006, be overturned and that the Affidavit filed concurrently with the Petition also be made of record and considered.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181. A review of the petitioner's evidence and of the prosecution history indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant could not have earlier filed the Affidavits as the reference which the Affidavit is proffered to overcome was first cited in the final rejection mailed January 30, 2006 and the second Affidavit is directed to an interpretation issue as to the definition of an automotive headliner first set forth in the Advisory Action mailed May 24, 2006.did not receive the Office letter mailed April 8, 2004.

Therefore, the application is being returned to the examiner of record for prompt consideration of both Affidavits supplied by applicant.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CUSTOMER NUMBER 23641

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CHICAGO IL 60690-1135

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Darren Maya et al :
Application No. 10/630,876 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 0112300-720 :

This is a decision on the petition, filed March 4, 2005, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
> (2) Consideration of a submission pursuant to 37 CFR 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not in compliance with none of the above.

Petitioner may consider filing under 37 CFR 1.313(c)(2).

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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 Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Petitioner may also fax the reply to (571) 273-0025, or handcarry to Madison Building West, 600 Dulany Street, Alexandria VA. 22314. This is only for petitions to withdraw from issue.

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Darren Maya et al :
Application No. 10/630,876 :
Filed: July 30, 2003 :
Attorney Docket No. 0112300-720 :

This is a decision on the petition, filed April 11, 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 14, 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 3713 will consider the request for continued examination under 37 CFR 1.114.

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).

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ARLINGTON, VA 22215

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ON PETITION

In re Application of :
Dennis M. Fair :
Application No. 10/630,895 :
Filed: July 31, 2003 :
Attorney Docket No. 20374.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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 March 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on June 10, 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 payment of the issue fee; (2) the petition and publication fees; 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) 272-3229.

The application matter is being forwarded to the Publishing Division 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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AMELIA B. YARBROUGH
8613 SAPIENZA DRIVE
FORT WASHINGTON MD 20744

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Caius E. Egbufoama
Application No. 10/630,902
Filed: July 31, 2003
Title of Invention: INCINERATOR FURNACE CONDENSERS AND METHODS OF USING

This is a decision on the petition under 37 CFR 1.137(a), filed October 18, 2005, 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** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned on March 11, 2005 for failure to file a response to the non-Final Office Action mailed December 10, 2004. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts unavoidable delay in filing a timely response to the non-Final Office Action.

A grantable petition to revive an abandoned application 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 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 § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

With regard to item (3), 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:

Petitioner has indicated that at the time the Notice was mailed that he had been living in Nigeria, Africa, and gives as the dates he began living in Nigeria as both November 2003 and November 2004. Petitioner further explains that his agent was unable to contact him in Africa.

Petitioner has not acted with diligence to have an updated address where he could be

---

[1] 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).

located with either the USPTO or with his agent and thus as a result, the cause of delay in filing a response to the non-Final Office Action can only be seen as an action that could have been avoided. Instead of an unavoidable delay, the failure to provide petitioner's agent with contact information for him demonstrates a lack of diligence.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). 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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], 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).

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).

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] 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)).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable. Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AMELIA B. YARBROUGH
8613 SAPIENZA DRIVE
FORT WASHINGTON, MD 20744

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
Caius E. Egbufoama :
Application No. 10/630,902 : DECISION ON PETITION
Filed: July 31, 2003 : TO MAKE SPECIAL UNDER
For: Incinerator Furnace Condensers and Methods of Using : 37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed October 18, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment and energy, as set forth in M.P.E.P. § 708.02, Sections V and VI.

The petition is **DISMISSED AS MOOT**.

This application became abandoned on March 11, 2005 for failure to file a response to the non-final Office action mailed December 10, 2004. Accordingly, the petition under 37 CFR 1.102(c)(2)(i) filed October 18, 2005 will not be treated on its merits

Telephone inquiries concerning this decision should be directed to Wan Laymon 571-272-3220.

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

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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8613 SAPIENZA DRIVE
FORT WASHINGTON, MD 20744

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Caius E. Egbufoama :
Application No. 10/630,902 : DECISION ON PETITION
Filed: July 31, 2003 : TO MAKE SPECIAL UNDER
For: INCINERATOR FURNACE CONDENSERS : 1.102(c)(2)
AND METHODS OF USING :

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(i), filed January 10, 2006, to make special based on the invention materially enhancing the quality of the environment, as set forth in M.P.E.P. § 708.02, Sections V.

The petition under 37 CFR 1.102(c)(i) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Applicant's invention may reduce waste material, however, there is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic-life sustaining natural elements." The contribution of applicant's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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

The petition to make special was filed by the inventor, Caius E. Egbufoama, with a Bladensburg, Maryland address. The address of record, however, is to Amelia B. Yarbrough in Fort Washington, Maryland. A Change of Correspondence Address filed on October 18, 2005 also states that Amelia Yarbrough is the attorney or agent of record, but there does not appear to be a power of attorney or agent in the application. Please note that the Office will not engage in dual correspondence with petitioner and petitioner's representative. If petitioner wishes to officially appoint Ms. Yarbrough as attorney or agent of record, please complete the Power of Attorney form (PTO/SB/81) and return it to the Office.

Telephone inquiries concerning this decision should be directed to Wan Laymon 571-272-3220.

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 Technology Center Art Unit 3749.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CAIUS EMEKA EGBUFOAMA
5802 ANNAPOLIS RD APT 706
BLADENSBURG, MD 20710

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMELIA B. YARBROUGH
8613 SAPIENZA DRIVE
FORT WASHINGTON MD 20744

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Egbufoama :
Application No. 10/630,902 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. N/A :
For: INCINERATOR FURNACE
CONDENSERS AND METHODS OF USING

This is a decision on the petition, filed January 10, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 10, 2004 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on March 11, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted an amendment in reply to the December 10, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 10, 2004 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

It is noted that the petition is signed by Inventor Egbufoama. However, the address of record is Amelia B. Yarbrough's address and Mr. Egbufoama refers to Ms. Yarbrough as his agent. The Office will not engage in dual correspondence with an applicant and his representative. Mr. Egbufoama is urged to file a power of attorney, as one is not currently in the application file.

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

After the mailing of this decision the application will be forwarded to Technology Center AU 3749 for consideration of the amendment filed on January 10, 2006.

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

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of :
John Barclay Owens, II, et al. :
Application No. 10/630,910 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 06975-417001 / HOME NETWO : 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 14, 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 Babak Akhlaghi on behalf of himself.

Mr. Babak Akhlaghi has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

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

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

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

MAY 16 2005

In re Application of Mitsuaki Osame et al.
Application No.: 10/630,939
Filed: July 31,2003
For: **LIGHT EMITTING DEVICE**

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 due to unpatentability of one or more claims pursuant to 37 C.F.R. § 1.313.

The U.S. Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) 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 Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Minsun Harvey, Supervisory Patent Examiner, at (571) 272-1835.

The application is being returned to the examiner for taking appropriate action.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP
150 GLOVER AVENUE
NORWALK, CT 06856

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Steven L. Bennett et al :
Application No. 10/630,945 : DECISION ON PETITION
Filed: July 30, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1583CP2CON3 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit 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 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 nonprovisional applications, accompanies this decision on petition.

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.

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 forwarded to Technology Center Art Unit 1712 for appropriate action on the amendment filed August 1, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

cc:
CARTER, DELUCA, FARRELL & SCHMIDT
445 BROAD HOLLOW ROAD, SUITE 225
MELVILLE, NEW YORK 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

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JUL 2 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,280,144 :
Application No. 10/630,984 :
Filed: July 30, 2003 : ON PETITION
Issued: October 9, 2007 :
Attorney Docket No. 15162/06070 :

This is a decision on the petition filed February 6, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee and the address of the inventors on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

In addition to the $100.00 Certificate of Correction fee, a $130.00 processing fee is required. Accordingly, the processing fee will be charged to petitioner's deposit account as authorized.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned 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
Petitions Examiner
Office of Petitions

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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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DEC 13 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Hackl :
Application No. 10/631,004 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 037068.52641US :

This is a decision on the petition, filed November 21, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A decision was rendered by the Board of Patent Appeals and Interferences on August 30, 2006 however no request for court review was filed within two months of the decision. Accordingly, since no claims existed, a Notice of Abandonment was mailed October 31, 2006. Petitioner argues that in response to the decision rendered August 30, 2006, a Request for Continued Examination (RCE) was filed on October 30, 2006.

A search of the application file and the USPTO records reveals that in fact, an RCE and amendment as the submission required under 37 CFR 1.114 was timely filed on October 30, 2006 and is of record. Further corroboration can be seen in the post-card receipt, date stamped by the USPTO on October 30, 2006, filed with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed October 31, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3683 for processing the RCE filed October 30, 2006.

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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MERCHANT & GOULD LLC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Richard Ticktin :
Application No. 10/631,025 : ON PETITION
Filed: July 29, 2003 :
Title: Concentrated Liquid Compositions and Methods of Providing the Same :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 8, 2006

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed July 27, 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 above-identified application became abandoned on October 28, 2005. A Notice of Abandonment was mailed on February 2, 2006.

Petitioner argues that the July 27, 2005 Office action was mailed to the wrong address, due to the fact that petitioner had filed a "Request to Withdraw as Attorneys of Record" on May 26, 2005. However, as stated in MPEP 402.02(6), a request to withdraw as attorney of record is effective when approved, rather than received.

Petitioner may wish to consider reviving the abandoned application pursuant to 37 CFR 1.137(a) or 37 CFR 1.137(b). A fee for each petition is required for the filing, and not merely the grant, of each petition.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l) - currently $250 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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 $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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

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MERCHANT & GOULD LLC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of :
Richard Ticktin :
Application No. 10/631,025 : ON PETITION
Filed: July 29, 2003 :
Title: Concentrated Liquid Compositions and Methods of Providing the Same :

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed July 27, 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 July 27, 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 above-identified application became abandoned on October 28, 2005. A Notice of Abandonment was mailed on February 2, 2006. Applicant filed a petition to withdraw the holding of abandonment on March 8, 2006. However, the petition was dismissed in a decision mailed on April 14, 2004.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Amendment was previously filed on March 8, 2006.

The matter is being forwarded to Group Art Unit 1751 for consideration of the Amendment filed March 8, 2006.

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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APR 16 2008

OFFICE OF PETITIONS

DONALD J. LENKSZUS
PO BOX 3064
CAREFREE AZ 85377-3064

In re Application of
DRY, Joel M.
Application No. 10/631,027
Filed: July 30, 2003
Attorney Docket No. **OPTOLUM-005**

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 19, 2008.

The request is **NOT APPROVED**.

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

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

There is an outstanding Office action mailed January 11, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **OPTOLUM, INC.**
1515 W. UNIVERSITY DR.
SUITE 102
TEMPE, AZ 85281

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARMENT
50 SOUTH SIXTH ST
SUITE 1500
MINNEAPOLIS MN 55402-1498

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Singh, et al. :
Application No. 10/631,029 : DECISION ON PETITION
Filed: July 29, 2003 :
Attorney Docket No. 28575/US/US :

This is a decision on the "PETITION UNDER 37 CFR 1.182", filed September 21, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of July 29, 2003, with pages 767-770 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 29, 2003. However, on September 1, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of NonProvisional Application." Applicants were notified that the application papers had been accorded a filing date of July 29, 2003; however, pages 767-770 of the specification appeared to have been omitted. In addition, applicants were instructed to submit the statutory basic filing fee, an oath or declaration, and the surcharge for their late filing.

In response, applicants filed the instant petition. Accompanying the petition was a copy of pages 767-770 of the specification. Applicants maintain that the application as originally filed included pages 767-770. In support thereof, applicants submitted a postcard receipt identifying this application, itemizing "Specification, Claims, and Abstract (785 pgs.)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 29, 2003, and lacking any notation of non-receipt of any item listed.

A 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 $130 petition fee has been refunded to Deposit Account No. 04-1420.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 29, 2003, using the application papers received in the Office on that date and pages 767-770 of the specification as resupplied on petition filed September 21, 2004.

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

Dechert, LLP
P.O. Box 10004
Palo Alto, CA 94303

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Rajinder Singh et al. :
Application No. 10/631,029 : DECISION ON PETITION
Filed: July 29, 2003 : TO WITHDRAW
Attorney Docket No. 375462-012US : 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 21, 2007.

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

A review of the file record indicates that the power of attorney to Ann M. Caviani Pease and all attorneys/agents associated with customer number 37509 has been revoked by the assignee Rigel Pharmaceuticals, Inc. of the patent application on April 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There is no outstanding office action at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Karen E. Flick
Foley & Lardner, LLP
1530 Page Mill Road
Palo Alto, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/631,029	07/29/2003	Rajinder Singh	375462-012US

CONFIRMATION NO. 3056

37509
DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303

OC000000024087760

Date Mailed: 05/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/11/2007.

- 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).

Kimberly Gravinet

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

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

McDonnell Boehnen Hulbert &
Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

In re Patent No. 7,517,886	:	
Singh et al.	:	DECISION ON
Issue Date: April 14, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/631,029	:	OF
Filed: July 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 09-563-US	:	

This is in response to the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FILED UNDER 37 CFR 1.705(d)," filed June 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred forty (740) days to one thousand one hundred and four (1,104) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 14, 2009, the above-identified application matured into U.S. Patent No. 7,517,886 with a patent term adjustment of 740 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that 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." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 619 of the 990 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 735 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 990 days. This 990 day period is calculated based on the application having been filed under 35 U.S.C. §111 on July 29, 2003, and the patent having not issued until April 14, 2009, three years and 990 days later. Patentees assert that in addition to this 990 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 735 days. This 735 day period is the sum of:

- a period of delay of 327 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1);
- a period of delay of 102 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2); and
- a period of delay of 306 days for the failure by the Office to issue a patent not later than four months after the date on which the issue fee was paid and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4).

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 250 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (990 days) and the period of Examination Delay (735 days) to the extent that these periods of delay are not overlapping.

Further, patentees articulate the periods of overlap as follows:

> Patentees contends that 65 days of the period of delay of 102 days for the Office's failure to respond to a reply under 35 U.S.C. 132 not later than four months after the

date on which the reply was filed, pursuant to § 1.702(a)(2) (June 23, 2006 to October 2, 2006) overlaps with the Three Year Delay period (July 30, 2006 to April 14, 2009). Patentees assert that this overlapping period is the 65 days running from July 30, 2006 to October 2, 2006.

In addition, patentees contend that the full 306 days for the failure by the Office to issue a patent not later than four months after the date on which the issue fee was paid and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4), (June 13, 2008 to April 14, 2009) overlaps with a portion of the Three Year delay period (July 30, 2006 to April 14, 2009). Patentees assert that this overlapping period is the entire 306 days from June 13, 2008 to April 14, 2009.

Thus, according to patentees the total period of overlap is 371 days.

Accordingly, patentees submit that the total period of Office Delay is 1,354 days, which is the sum of the period of Three Year Delay (990 days) and the period of Examination Delay (735 days), reduced by the period of overlap (371 days).

As such, patentees assert entitlement to a patent term adjustment of 1,104 days (990 +735 reduced by 371 overlap -250 for applicant delay).

The Office agrees that the patent issued 3 years and 990 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the Office entered a period of adjustment of 735 days. At issue is whether patentees should accrue 619 (adjusted for overlap, per patentees' definition of overlap) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 735 days for Office failure to take certain actions within a specified time frames (or examination delay).

The Office contends that 735 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this

provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> 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).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a

> patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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 other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, July 29, 2003 to April 14, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 735 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of these 735 days overlap with the 990 days for Office delay in issuing the patent. The Office took 14 months and 327 days to issue a first Office action, four months and 102 days to mail a non-final Office action in response to response filed May 7, 2008, and the Office took 4 months and 306 days to issue the patent after the issue fee and all outstanding requirements were satisfied. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 735 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 990 days after its filing date. The Office properly entered 255 days of patent term adjustment since the period of delay of 990 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 735 days attributable to grounds specified in § § §1.702(a)(1),(2), and (4).

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, at issuance, the Office properly entered 255 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent for a total Office delay of 990 days.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 740 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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080326

DATE : March 26, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 7,132,170

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: Jim Seidleck — **Art Unit** 1796

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,071	07/31/2003	Ronald L. Mahany	14406US02	3942

23446 7590 10/08/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER	
SANTIAGO CORDERO, MARIVELISSE	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
10/08/2008	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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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of
MAHANY, RONALD L., et al.
Appl. No.: 10/631,071
Filed: July 31, 2003
For: **RADIO FREQUENCY LOCAL AREA NETWORK**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed November 8, 2007 and resubmitted on May 6, 2008, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that items C27, C28, C29, C119, C120, and C431 listed in the Information Disclosure Statement filed June 3, 2006 be expunged from the record. Petitioner states that the documents were inadvertently submitted and states the failure to obtain their return would cause irreparable harm to Qualcom (page 3 of the petition filed 5/06/08), and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid in the original petition filed November 8, 2007.

The expunged documents have been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on 05 February 2004. Thus, the aforementioned documents submitted on 3 June 2006 have already been made available to the public and subject to copying by the public. Accordingly, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

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FEB 06 2004

OFFICE OF PETITIONS

In re Application of :
Oliver Charles Schuepbach :
Application No. 10/631,095 :
Filed: July 31, 2003 : Decision on Petition
Attorney Docket Number: :
TI-33782 :

This is a decision in response the Petition for Review of Refusal to Grant Filing Date-37 CFR 1.181(f), filed November 24, 2003 (Certificate of Mailing dated November 18, 2003).

The petition is **granted**.

The application was filed on July 31, 2003. However, on October 28, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application, noting that a filing date had not been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that formal drawings were originally filed with the application on July 31, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, formal drawings on July 31, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of formal drawings on July 31, 2003. Petitioner has also re-submitted the formal drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an

Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of the 5 sheets of formal drawings, supplied on November 24, 2003, will be used for examination purposes.

No petition fee is required and none has been charged.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of July 31, 2003, and an indication that 5 sheets of drawings were present on filing, using the 5 sheets of drawings filed on November 24, 2003.

Telephone inquiries concerning this matter 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

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JAN 14 2010

In re Application of	:	
Michael John Hodgson	:	DECISION ON PETITION
Application No. 10/631,107	:	TO WITHDRAW
Filed: July 31, 2003	:	FROM RECORD
Attorney Docket No. 45396.5	:	

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 18, 2009.

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

A review of the file record indicates that Sughrue Mion PLLP was revoked as power of attorney by the assignee of the patent application on January 4, 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

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United States Patent and Trademark Office
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James W. Potthast
Potthast & Associates
10606 Deerpath Road
Woodstock, IL 60098

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of :
LASSOTA, et al. :
Application No.: 10/631,118 :
Filed: July 31, 2003 :
Attorney Docket No.: FET-19 :

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 20, 2005, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on April 20, 2006 (reply was accompanied by petition for a one-month extension of time), that reply did not prima facie place this application in condition for allowance as indicated by the Advisory Action of May 08, 2006. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on April 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 a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 20, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1761.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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JAN 04 2007

Technology Center 2100

WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

In re Application of: Mauceri, et al.
Application No.: 10/631,119
Filed: July 31, 2003
Attorney Docket No.: 13768.810.52
For: INTEGRATED DECORATIVE PANELS

DECISION ON PETITION *UNDER 37 CFR §1.181*

This is a decision on the petition filed August 17, 2006, under 37 CFR §1.181(a), to restart the period for response of the final rejection mailed March 15, 2006. The delay in response to the petition(s) is regretted.

Applicant is reminded, in accordance with 37 CFR § 1.181(f), the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings

A review of the file record indicates that prosecution was reopened as a result of the request for continued examination (RCE) that was filed by Applicant on August 8, 2006, wherein a non-final Office action was mailed on November 1, 2006, in response thereto. In addition,

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181(a) to invoke supervisory authority to restart the period for response of the final rejection mailed March 15, 2006, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The period for response ***continues to run*** from the mailing date of the non-final Office action of November 1, 2006. In accordance with 37 CFR § 1.136(a), an extension of time (up to three months) is available to extend the period for response. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of :
CHAUVEL et al :
Application No.: 10/631,120 : DECISION ON PETITION
Filing Date: July 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: TI-35486 (1962-05420) :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 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 December 20, 2005, 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, by operation of law, the above-identified application became abandoned on March 20, 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 an amendment and arguments; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed December 20, 2005 is accepted as having been unintentionally delayed.

The Notice of Abandonment mailed July 13, 2006 is hereby VACATED.

This application is being referred to Technology Center AU 2183 for appropriate action on the reply in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 09-05

Paper No: __

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Moyer, et al.	:	
Application No. 10/631,136	:	ON PETITION
Filed: 31 July, 2003	:	
Attorney Docket No. SC12888TH	:	

This is a decision on the petition filed on 11 January, 2005, under 37 C.F.R. §1.53, to obtain a filing date of 31 July, 2003, for page 22 (specification, description, claims, abstract) of the instant application.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

After this application was deposited on 31 July, 2003:

- on 9 September, 2004, Petitioner requested a "Corrected Filing Receipt" in response to the filing receipt mailed by the Office on 10 February, 2004;

- on 8 November, 2004, the Office mailed a Withdrawal of Previously Sent Notice, which appears to have been a reply to Petitioner's request in that the mailing withdrew the "Notice" of "2/10/04," and further was accompanied by a Notice of Omitted Items indicated that, while the application had been accorded a filing date, it appeared that Page 22 of the specification (description, claims and abstract) had been omitted on deposit. OIPE indicated that Petitioner might: contend via petition (with a copy of the item(s)) that the omitted item(s) had been

submitted and Petitioner might file a petition under 37 C.F.R. §1.182 (considered under 37 C.F.R. §1.53) as to that contention; submit the omitted item and accept the date of submittal as the filing date, or accept the application in the form the Office indicated it had been received. And OIPE set a two- (2-) month period for reply;

- over a 7 January, 2005, certificate of mailing, Petitioner filed the instant petition (with fee) on 11 January, 2005, with, *inter alia*, a copy of the date-stamped ("07/31/03") receipt card (see: MPEP §503[1]), a copy of the entire application, including Page 22 of the specification (description, claims, abstract) as averred to have been filed, and, a request for a filing date of 31 July, 2003, for page 22 of the specification (description, claims, abstract) of the application.

Analysis

A search of the official file reveals that:

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- on 26 May, 2004, Petitioner deposited the instant application;

- the date-stamped receipt card evidences the following, in pertinent part:

* * *

Pages		Description

* * *

	X	Return Receipt Postcard
1	X	Utility Patent Application Transmittal Letter
1	X	Fee Transmittal - in duplicate
26	X	Specification

* * *

The specification submitted by Petitioner with the instant petition is numbered sequentially with the description Pages 1 - 19, the Claims Pages 20 - 25, and abstract Page 26, and Pages 1 - 21 and 23 - 26 submitted by Petitioner match to those on file in the Office and no pages are duplicates.

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including Page 22 of the specification (description, claims, abstract) was deposited with the Office on 31 July, 2003, and the Page 22 of specification (description, claims, abstract) subsequently was misplaced in the Office.

Accordingly, the application, including Page 22, is entitled to a filing date of 31 July, 2003.

The Notice of Omitted Items mailed on 8 November, 2004, was sent in error and is hereby vacated to the extent that it stated that the application was filed omitting Page 22 of the specification (description, claims, abstract).

CONCLUSION

The petition is **granted** and the petition fee waived and refunded.

This application is released to OIPE for further processing with a filing date of 31 July, 2003, for the entire application, including page 22 of the specification (description, claims, abstract) with pages 1 - 21 and 23 - 26 of the specification (description, claims and abstract) and 4 sheets of drawings, as described in the specification, using:

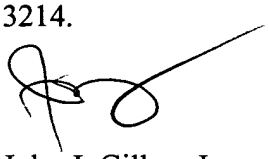
- **pages 1 - 21 and 23 - 26 of specification (description, claims and abstract) and four (4) sheets of drawings deposited on 31 July, 2003; and**

- **and Page 22 of the specification (description, claims, abstract) deposited on 11 January,**

2005; and further

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 31 July, 2003, and reflecting therein that 26 pages of specification (description, claims and abstract) and 4 sheets of drawings were present on filing.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	DRAWINGS	TOT CLMS	IND CLMS
10/631,143	07/31/2003	1615	849	PMAN / 23		40	10

CONFIRMATION NO. 2223

26875
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

CORRECTED FILING RECEIPT

OC000000013489232

Date Mailed: 08/09/2004

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)

Gholam Peyman, New Orleans, LA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/27/2003

Projected Publication Date: 02/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Treatment of ocular disease

Preliminary Class

424

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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100 GALLERIA PARKWAY, NW
SUITE 1750
ATLANTA, GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Connell Reynolds :
Application No. 10/631,146 : DECISION ON PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 61807-1020 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 16, 2004, 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;[1]

(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.

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[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

The instant pending nonprovisional application was filed on July 31, 2003, within twelve months of the filing date of the prior provisional application, Application No. 10/631,146, which was filed on July 31, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in 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 de Seversky, *supra. Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement for Application No. 60/399,982, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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: Customer Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

---

[2]Note 37 CFR 1.121

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

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

In re Application of :
Connell Reynolds :
Application No. 10/631,146 : DECISION ON PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 61807-1020 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed August 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/399,982.

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 surcharge set forth in 37 CFR 1.17(t);

(2) 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; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 31, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/399,982, which was filed on July 31, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *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 prior-filed provisional Application No. 60/399,982 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.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center AU 3736 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/399,982, filed July 31, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
. U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,976,299

APPLICATION NO.: 10/631,147

ISSUE DATE : 12/20/2005

INVENTOR(S) : Seigneur, Christopher

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

In the Figures:
Fig. 1, "39"... should be deleted;
Fig. 2, "226" and "242"... should be deleted;
Fig. 3B, "354"... should be deleted;
Fig. 4B, "454"... should be deleted;
Fig. 5, "522", "532", "542", "544", and "546"... should be deleted;
Fig. 6, "622", "632", "642" and "646"... should be deleted.

In the Background:
Col. 1, line 37 "...inlet 234, 236..." should read –...inlets 234, 236...–.

In the Detailed Description:
Col. 3, line 26 "...cross sectional-views..." should read –...cross-sectional views...–;
Col. 3, lines 40-41 "...tubular extension 350..." should read –...tubular extension of check valve 350...–;
Col. 3, line 45 "...extensions 350..." should read –...check valve 350...–;
Col. 4, line 5 "...under side 344..." should read –...underside 344...–;
Col. 4, line 58 "...under side 444..." should read –...underside 444...–;
Col. 4, line 66 "cross sectional-views..." should read –...cross-sectional views...–;
Col. 5, line 29 "...under side 644..." should read –...underside 644...–;
Col. 5, line 31 "...650',..." should read –...650', [boldface] ...–.

In the Claims:
Col. 6, line 18 "...in lets..." should read –...inlets...–.

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

SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Ave., Suite 1900
Portland, OR 97204

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

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

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INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of
Viltro et al.
Application No.10/631,158
Filed: July 31, 2003
Attorney Docket No. CM2500MC
Title of Invention: Process For Making Pouches

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 19, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §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 C.F.R. §1.136(a).

The above-identified application was filed on July 31, 2003, without a signed oath or declaration. Accordingly, on October 27, 2003, a "Notice to File Missing Parts of Application" was mailed requiring, for the purposes of this decision, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on December 19, 2003, a petition, and a partially executed declaration were received. A second Notice of Missing Parts was mailed on January 29, 2004 requiring the $130.00 surcharge for late filing. The late surcharge fee in the amount of $130.00 was provided on February 12, 2004 as well as a Declaration of Facts to support the petition.

Pursuant to petitioner's request deposit account 16-2480 has been charged the $130.00 petition fee.

A grantable petition under 37 C.F.R. §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.

fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Rule 47 applicant indicates a letter was sent to inventor Gressel's last known address. However, rule 47 applicant did not indicate a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the non-signing inventor. The May 21, 2003 letter to inventor Gressel only indicates the oath and declaration and the assignment papers were sent to Gressel. The Declaration of Facts indicates "documents" and a letter were mailed to Gressel. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). If the application papers were sent to inventor Gressel as statement to that effect should be provided.

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
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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WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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AUG 19 2004

OFFICE OF PETITIONS

In re Application of
Louis John Viltro, Rachid Ben Moussa, Timothy Bernard William Kroese, Tanguy Marie Louise Alexandre Catlin, Carl Noble and Ray Kaercher
Application No. 10/631,158
Filed: July 31, 2003
Attorney Docket Number: CM2500MC
Title of Invention: Process For Making Pouches

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 6, 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 after having been presented with the application papers. Specifically, the statement of facts attest a copy of the application was sent to non-signing inventor's last known address via Federal Express. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that she refuses to execute the application papers.

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 forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

Mail Date: 04/21/2010

Applicant	: Kimberly D. Seaman	: DECISION ON REQUEST FOR
Patent Number	: 7624052	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/631,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 07-06

Paper No: __

MATTHEW R. JENKINS, ESQ.
2310 FAR HILLS BUILDING
DAYTON OH 45419

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
McCarthy :
Application No. 10/631,179 : DECISION
Filing Date: 31 July, 2003 :
Attorney Docket No.: NCI 010P2 :

This is a decision on the petition filed on 9 June, 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 Notice of Allowance/Allowability and Fees Due and Notice of Allowability mailed on 10 August, 2005, with reply due absent extension of time on or before 10 November, 2005;
- the instant application went abandoned after midnight 10 November, 2005;
- the Office mailed a Notice of Abandonment on 2 June, 2006;
- on 9 June, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded 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.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

---

[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).

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;
(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]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be

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.[3]

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,[7] 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.[8]))

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.

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regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an 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.

[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] 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).

[8] 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.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel, et. al. :
Application No. 10/631,185 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. TI-35431 (1962-05410) :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 30, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed August 22, 2006. A Notice of Abandonment was mailed on March 7, 2007.

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 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.

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) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2185, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Grant E. Randall, Sr, et al.	:	
Application No. 10/631,193	:	ON PETITION
Filed: July 31, 2003	:	
Attorney Docket No. 10,129; 60246-225	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of October 23, 2008 by the Board of Patent Appeals and Interferences. Therefore, 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 December 24, 2008. See MPEP 1214.06.

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 $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 3637 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.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel, et al. :
Application No. 10/631,196 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. TI-36709 (1962-05424) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 5, 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 January 6, 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) (1).

The instant petition lacks a proper signature on the required reply.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel, et al. :
Application No. 10/631,196 : DECISION ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. TI-36709 (1962-05424) :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2007 and the supplemental petition filed November 7, 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 5, 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 January 7, 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 $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 2193 for appropriate action by the Examiner in the normal course of business on the reply received September 15, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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29 W LAWRENCE ST
SUITE 210
PONTIAC, MI 48342

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OFFICE OF PETITIONS

In re Application of	:	
James E. Selis	:	
Application No. 10/631,204	:	DECISION GRANTING PETITION
Filed: July 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1142-001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 25, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3773 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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Paul E. Kudirka
KUDIRKA & JOBSE, LLP
One State Street
Suite 800
Boston, MA 02109

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AUG 2 3 2005

Technology Center 2100

In re Application of:
Raymond E. Ozzie et al.
Application No. 10/631,206
Filed: July 31, 2003
For: METHOD AND APPARATUS FOR MANAGING AND DISPLAYING CONTACT AUTHENTICATION IN A PEER-TO-PEER COLLABORATION SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 23, 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 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**.

All future communications from the U.S. Patent and Trademark Office (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 Office of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Eason for

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

cc: Kymerie Schmidt
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

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C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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In re Application of :
Ozzie, et al. :
Application No. 10/631,206 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. M1103.70263US00 :

This is a decision on the petition, filed October 28, 2008, 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 **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and 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. A review of the file record shows that a Request to Rescind was filed on . However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

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

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

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

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

Telephone inquiries concerning 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

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of :
Ozzie, et al. :
Application No. 10/631,206 :
Filed: July 31, 2003 :
Attorney Docket No. M1103.70263US00 :

ON PETITION

This is a decision on the renewed petition, filed January 16, 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 July 6, 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 June 11, 2009 accompanies this decision on petition.

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

This application is being directed to Technology Center Art Unit 2431 for examination in due course.

/ALESIA M. BROWN/
Alesia M. Brown
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
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
10/631,206	07/31/2003	Raymond E. Ozzie	M1103.70263US00

CONFIRMATION NO. 3320

45840
WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

NONPUBLICATION RESCISSION LETTER

Date Mailed: 03/03/2009

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 06/11/2009.

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".

/ambrown/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 5, 2007

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction for Appl. No. 10/631208 patent no. 6904681

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: (1) It is not clear where the changes are to be made in the claims, since none of the lines mentioned include the phrase "said bearing device" in its entirety. (2) The change in wording affects the scope and meaning of the claims.

David Bryant 9/24/07

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
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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Date Mailed : February 29, 2008

Serial no. : 10/631208
Patent No. :6,904,681 B2
Patent Issued :June 14, 2005
Inventor(s) : Steven G. Slesinski
Title :METHOD FOR FABRICATING A DRIVING AND LOCKING MECHANISM

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.

Respecting the alleged error noted in your request, it is not clear where the changes are to be made in the claims, since none of the lines mentioned included the phrase "said bearing device" in its entirety. The change in wording affects the scope and meaning of the claims.

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

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decision and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (703) 746-4656

Dana Technology Inc.
8000 Yankee.Road
Ottawa Lake, MI 49267

CBN/mt

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610 DOWELL STREET
CODE OOL, BLDG. 82
KEYPORT WA 98345-7610

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DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 6,926,118
Issue Date: August 9, 2005
Application No. 10/631,217
Filed: November 1, 2002
Attorney Docket No. 3041-5501US

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 13, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 9, 2009, for failure to pay the three and one-half year maintenance fee.

Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

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

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: RYAN STAMPER
NAVAL UNDERSEA WARFARE CENTER
DIVISION KEYPORT
610 DOWELL STREET, CODE 00L, BLDG 1003T
KEYPORT, WA 98345-7610

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OFFICE OF PETITIONS

NAVAL UNDERSEA WARFARE CENTER
DIVISION KEYPORT
610 DOWELL STREET
CODE OOL, BLDG. 82
KEYPORT WA 98345-7610

In re Patent No. 6,926,118
Issue Date: August 9, 2005
Application No. 10/631,217
Filed: July 31, 2003
Attorney Docket No. 84658

CORRECTION
ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 13, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 9, 2009, for failure to pay the three and one-half year maintenance fee.

Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

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

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: RYAN STAMPER
NAVAL UNDERSEA WARFARE CENTER
DIVISION KEYPORT
610 DOWELL STREET, CODE 00L, BLDG 1003T
KEYPORT, WA 98345-7610

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BLDG 112T
NEWPORT RI 02841

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NOV 14 2005

OFFICE OF PETITIONS

In re Application of :
Charles D. SPELLMAN et al. :
Application No. 10/631,221 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 76589 :

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 submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on June 25, 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 of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment 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 the Office of Patent Publication.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BLDG 112T
NEWPORT RI 02841

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Charles D. Spellman et al. :
Application No. 10/631,222 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No.: 76306

This is a decision on the petition filed June 13, 2005 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for April 14, 2005, for failure to timely pay the issue fee on or before April 13, 2005. Accordingly, a Notice of Abandonment was mailed May 25, 2005.

Receipt of the issue fee, and petition fee are acknowledged.

This application is being forwarded to the Publishing Division for review of the one drawing sheet shown as having been received in the PTO on June 13, 2005 and 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

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: 07/16/2010

Applicant	: Jaya Pathak	: DECISION ON REQUEST FOR
Patent Number	: 7645474	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/631,228	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA, VA 22313-1450
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MAR 29 2004

In re Application of	:	
Matvey Lvovskiy	:	
Serial No. 10/631,242	:	DECISION ON PETITION
Filed: August 1, 2003	:	TO MAKE SPECIAL
For: TRAINING SIMULATOR FOR SHARP SHOOTING	:	

Applicant's petition, filed August 1, 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

Boris Leschinsky
P.O. Box 72
Waldwick, NJ 07463

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

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DEC 13 2006
OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel et al :
Application No. 10/631,246 : DECISION GRANTING PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-35434 (1962-05413) :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 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 and drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 20, 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 Technology Center AU 2183.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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VP
PAPER NO. ___

AUG 25 2004

In re Application of
Jiten Chatterji et al.
Serial Number: 10/631,248
Filed: July 31, 2003
For: COMPOSITIONS AND METHODS FOR PREVENTING COAGULATION OF WATER-IN-OIL EMULSION POLYMERS IN AQUEOUS SALINE WELL TREATING FLUIDS

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed July 31, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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ROCKWELL COLLINS, INC.
ATTENTION: KYLE EPPELE M/S 124-323
400 COLLINS RD. NE
CEDAR RAPIDS, IA 52498

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Daniel L. Woodell et al :
Application No. 10/631,253 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 03CR144/KE :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 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 June 30, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 2004.

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

This matter is being referred to Technology Center AU 3662 for further processing.

Irvin Dingle
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
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Claude F. Meares et al :
Application No. 10/631,258 : DECISION DISMISSING PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.181
Attorney Docket No. 023070-130920US :

This is a decision on the petition filed November 15, 2004, which is being treated as a petition under 37 CFR 1.181 requesting a corrected filing receipt which includes a list of prior-filed Application Nos. 10/625,047 and 10/350,555.

The petition is **dismissed**.

ISSUE

Petitioner states that the filing receipts mailed on November 17, 2003 and October 22, 2004 "do not list the priority applications of which the above-identified U.S. patent application claim [sic, claims] the benefit of." More specifically, petitioner states that on page 1, lines 3-8 of the "Cross-References to Related Applications" section of the instant application, the claim for priority reads as follows:

> This application is a continuation-in-part of U.S. Patent Application No. _____, filed July 22, 2003 (Attorney Docket No. 023070-130910US, Multi-Functional Antibodies) which is a continuation-in-part of U.S. Patent Application No. 10/350,555, filed January 23, 2003, the disclosures of which are herein incorporated by reference in their entirety for all purposes.

Petitioner explains that a blank line was placed in the claim for priority because the application number for the continuation-in-part application; namely, Application No. 10/625,047, had not yet been assigned and that it was the intention to replace the blank line with the new application number once it had been assigned. Petitioner also points out that the filing receipts also failed to list Application No. 10/350,555, which also appears in the specification as filed.

Therefore, petitioner is requesting issuance of a corrected filing receipt in view of the inclusion of the priority information in the specification.

DISCUSSION AND ANALYSIS OF PETITION UNDER 37 CFR 1.181

Issuance of a corrected filing receipt would not be appropriate at this time since the claim for priority did not include the application number. While it is appreciated that petitioner did not have the application number of the prior-filed application on filing of the instant application, the rule nevertheless requires that the claim for priority identify both the application number, series code, and the relationship (which was stated) within four months from the filing date of the application or within sixteen months from the earliest filing date claimed. *See* 37 CFR §§ 1.78(a)(2)(i) and (ii). Petitioner's attention is directed to 35 U.S.C. § 120, which states, in pertinent part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment **containing the specific reference** to the earlier filed application is submitted **at such time** during the pendency of the application **as required by the Director** [emphasis supplied].

MPEP 201.11 A. *Reference to Prior Nonprovisional Applications*, states, in pertinent part:

> Any benefit claim that does not <u>both</u> identify a prior application by its application number <u>and</u> specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120. Such benefit claim may not be recognized by the Office and may not be included on the filing receipt even if the claim appears in the first sentence of the specification or an application data sheet ***.

MPEP 201.11 also states, in pertinent part:

> Except for benefit claims to the prior application in a continued prosecution application (CPA), benefit claims under 35 U.S.C. 120, 121 and 365(c) **must identify the prior application by application number** or by international application number and international filing date, and indicate the relationship between the applications [emphasis supplied].

Further, while a claim for priority to prior-filed Application No. 10/350,555 was present on filing of the instant application, this claim could not be entered in view of the absence of the application number of the prior-filed application from which benefit is claimed.

In view of the above, petitioner has not complied with the requirements of 35 U.S.C. § 120 and 37 CFR §§ 1.78(a)(i) and (ii). Accordingly, issuance of a corrected filing receipt is inappropriate at this time and the petition therefor must be dismissed.

However, petitioner does have a remedy by way of a petition under 37 CFR 1.78(a)(3) for obtaining the desired benefit under 35 U.S.C. § 120 to the prior-filed applications. A 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 where there is a question whether the delay was unintentional.

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MORGAN LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Claude F. Meares et al :
Application No. 10/631,258 : DECISION ON PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 061818-5015-US02 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit 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 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. 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 1642 for appropriate action on the amendment filed March 7, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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
OIW 03-05

JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN OK 73536

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MAR 0 9 2005
OFFICE OF PETITIONS

In re Application of	:	
Connell et al.	:	
Application No. 10/631,288	:	DECISION ON PETITION
Filed: 31 July, 2003	:	UNDER 37 CFR 1.78(a)(3)
Atty Docket No. 2001-IP-005011U1C1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 30 July, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED AS MOOT**.

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.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on 31 July, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the

specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt. In view of the above, the $1,330.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. 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 the Publishing Division for appropriate action.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CATERPILLAR c/o LIELL & MCNEIL ATTORNEYS, PC
P.O. BOX 2417
511 SOUTH MADISON STREET
BLOOMINGTON, IN 47402-2417

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
Norval J. Weimken :
Application No. 10/631,291 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 00-197 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 12, 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 August 29, 2005. A Notice of Abandonment was mailed on May 3, 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**.

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

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 A. SELDON
18TH FLOOR
10940 WILSHIRE BLVD.
LOS ANGELES CA 90024-3952

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Dennis Chisum et al. : DECISION ON PETITION
Application No. 10/631,301 :
Filed: July 31, 2003 :
Attorney Docket No.: L8382-01005 :

This is a decision on the petition filed May 3, 2006, under 37 CFR 1.137(a), to revive the above-identified application.

The petition under 37 CFR 1.137(a) 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.

This application became abandoned on December 12, 2005, for failure to file a timely response to the non-Final Office Action mailed September 9, 2005, which set a three (3) month period for reply. Accordingly, the Notice of Abandonment was mailed <arch 20, 2006.

Petitioner asserts that the non-Final Office Action was never received.

UNAVOIDABLE DELAY

A grantable petition to revive an abandoned application 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 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 § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). 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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

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[1] 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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner asserts that the Notice mailed September 9, 2005 was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the 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 petitioner's statement.[3]

Petitioner has not submitted additional evidence to corroborate the allegation of non-receipt. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

UNINTENTIONAL DELAY

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

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

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

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

---

[3]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COOLEY GODWARD LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto CA 94306-2155

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JUN 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Ross et al.	:	
Application No. 10/631,304	:	DECISION ACCORDING STATUS
Filed: July 31, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. HTEC-014/01US	:	
For: Respiratory Analyzer For Exercise Use	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 27, 2004. Applicants obtained a four-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner has shown that James R. Mault, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declaration of Facts of Craig A. Neugeboren establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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 present 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 3700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN - 8 2005

In re Application of BLACKBURN, JEFFERY S.
Appl. No.: 10/631,306
Filed: July 30, 2003

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 action.

Robert Oberleitner
Director
Patent Examining Technology Center 3600

L. C. Begin & Associates, PLLC
510 Highland Avenue
PMB 403
Millford, MI 48381

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

In re Application of Michelson :
Application No. 10/631,309 : Decision on Petition
Filing Date: July 31, 2003 :
Attorney Docket No. 101.0037-02000 :

This is a decision on the petition under 37 CFR 1.181, filed January 16, 2008, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on May 30, 2007. The Office action set a three-month shortened statutory period for reply.

Petitioner filed a reply on June 11, 2007. The reply is located within the Image File Wrapper for the application.

The Office mailed a Notice of Abandonment on January 7, 2008. The Notice states the application is abandoned because a reply was never filed in response to the May 30, 2007. However, the contents of the file wrapper include a reply timely filed on June 11, 2007.

The Notice of Abandonment was mailed in error. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3772 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

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21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Sergej Popikow :
Application No. 10/631,325 :
Patent No. 6,813,854 :
Filed: August 1, 2003 :
Issue Date: November 9, 2004 :
Attorney Docket Number: 740-X03-038 :
Title: BOLT SYSTEM FOR MULTIBARREL RIFLES :

DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed June 7, 2005 under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "S.A.T. Swiss Arms Technology AG, Neuhausen (CH)."

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

(b) 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

1 See Official Gazette, June 22, 2004.

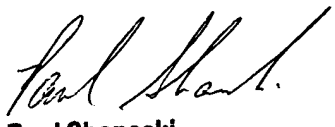
certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on January 6, 2004 (Reel/Frame 014843/0507). This was prior to the payment of the Issue Fee on October 1, 2004.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.



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

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : March 7, 2007

Patent No. :6,981,758
Inventor :Cruz-Uribe et al.
Patent Issued :January 3, 2006
Docket No. :200313609-1

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 Rules 1.322 and 1.323.

Respecting the alleged error concerning deletion of inventors names; the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

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

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia B. Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Hewlett-Packard Company
Intellectual Property Section
3404 E. Harmony Road, M/S 79
For Collins, CO 80528

CBN/arg

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

FROMMER LAWRENCE & HAUG, LLP.
10TH FLOOR
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 07/16/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7643096	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/631,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20100715

DATE : July 15, 2010

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.:

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:

The requested change does not introduce new matter.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

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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JOHN P. WOOLDRIDGE
252 KAIPII
KIHEI, HI 96753

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JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Daniel G. Steams et al :
Application No. 10/631,359 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. CIL-10705B :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 June 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 3, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 50-1913 was charged a total of $3,200.00 -- $1500.00 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOHN P. WOOLDRIDGE
252 KAIPII
KIHEI, HI 96753

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Daniel G. Steams et al :
Application No. 10/631,359 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. CIL-10705B :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 June 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 3, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 50-1913 was charged a total of $3,200.00 -- $1500.00 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

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CREW, LLP
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SEP 02 2009

OFFICE OF PETITIONS

In re Patent No. 7,523,485	:	
Philip Kwan	:	DECISION DISMISSING
Application No. 10/631,366	:	REQUEST FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Filed: July 31, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
019959-001510US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION, filed on March 26, 2009, which is treated as an application for patent term adjustment under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from six hundred seventy-two (672) days to one thousand one hundred three (1103) 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 672 days.

BACKGROUND

This application was filed on July 13, 2003. On January 13, 2009, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 672 days[1]. On April 21, 2009, the application matured into U.S.

[1] 855 days of Office delay was reduced by 183 days of applicant delay for a patent term adjustment of 672 days. No request for reconsideration of this initial determination was filed.

Patent No. 7,461,008, with a revised patent term adjustment of 672 days. The Office determined that the 617 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 855 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 855 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 183 days, the patent issued with a revised patent term adjustment of 672 (855 - 183) days.

On March 26, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee),

---

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

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:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[3] As of the filing of the RCE on April 8, 2008, the application was pending three years and 617 days.

[4] 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;

[5] A first Office action was not mailed until February 2, 2007, fourteen months and 855 days after the application filing date, July 31, 2003.

asserting that the correct number of days of Patent Term Adjustment is 1103 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). 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 1286 (855 + 617 - 186 overlap) days as these periods do not occur on the same day.[6] Further, given the applicant delay of 183 days, patentee asserts entitlement to 1103 (1286 - 183) days of patent term adjustment.

OPINION

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)*[7] *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

---

[6] Patentee discloses an overlapping period beginning on the day after the date that is three years after the filing of the application, July 31, 2006, and ending on the date of the mailing of the first Office action, February 2, 2007, or 186 days. It is noted that applicant mistakenly refers an overlapping period of "July 31, 2006 to February 2, 2002." However, it is obvious that February 2, 2007, rather than February 2, 2002, the date the first office action was mailed, is the correct date. Patentee's argument has been articulated accordingly.

[7] 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.

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). 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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), 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, July 31, 2003, and ending on the date of filing of a request for continued examination (RCE), April 8, 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), 855 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), 617 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 617 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 855 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 855 days and the 617 days is neither permitted nor warranted. 855 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 855 days for Office delay.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 672 (855 - 183) 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 Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
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JUL 21 2006

OFFICE OF PETITIONS

In re Application of :
Coutts et al. :
Application No. 10/631,388 :
Filed: July 30, 2003 : ON PETITION
Attorney Docket Number: :
252312005708 :

This is a decision on the Petition to Withdraw Holding of Abandoned Under 37 CFR 1.181, filed June 1, 2006.

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 14, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 15, 2006. A Notice of Abandonment was mailed May 24, 2006.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on April 14, 2006, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt of, inter alia, an Amendment an Extension of Time on April 14, 2006. Applicant also provides a copy of the Amendment Transmittal and an Amendment. A review of the Amendment and Petition for Extension of Time reveals that they contain a Certificate of Mailing dated April 14, 2006. In view of the foregoing, the holding of abandonment is hereby withdrawn. Accord MPEP § 503 and 37 CFR § 1.8.

Accordingly, the petition is granted.

The copy of the Amendment Transmittal and an Amendment, filed with the instant petition, will be used for examination purposes.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 1654 for continued processing in due course.

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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120 South La Salle Street
Suite 1600
Chicago, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :

Kathleen Danenberg et al. :
Application No. 10/631,413 : DECISION ON PETITION
Filed: July 30, 2003 : TO WITHDRAW
Attorney Docket No. 81975/8147 : 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 28, 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 Scott J. Menghini on behalf of all attorneys of record who are associated with Customer No. 22242.

All attorneys/agents associated with the Customer No. 22242 have been withdrawn.

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

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

There is an outstanding Office action mailed June 27, 2006 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kathleen D. Danenberg**
3367 Rubio Crest Drive
Altadena, CA 91001

cc: **Biotechnology Law Group**
527 N. Highway 101
Suite E
Solana Beach, CA 92075

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APR - 5 2004

KATHRYN DOLYE
MORGAN, LEWIS & BOCKIUS, LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

In re Application of :
Boris Skurkovich, et al. :
Serial No.: 10/631,439 : PETITION TO MAKE SPECIAL
Filing Date: July 30, 2003 :
Attorney Docket No. 53663-5023

This letter is in response to the Petition, filed December 18, 2003, to make the above-identified application special under the provisions of 37 CFR. ¶ 1.102©, based on the age of the applicant.

DECISION

Applicant has satisfied the provisions of M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED.**

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450 or by telephone at (571) 272-0512 or by facsimile transmission at (703) 872-9306.

JBurke

Julie Burke
Special Program Examiner
Technology Center 1600

DEC 1 8 2003
PATENT & TRADEMARK OFFICE

OIPE

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP MISSING PARTS, COMMISSIONER FOR PATENTS, MAIL STOP 1450, ALEXANDRIA, VA 22313-1450, ON THE DATE INDICATED BELOW:

BY: Daryl Patet DATE: December 16, 2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:	Patent Application of Boris Skurkovich, et al.	Group Art Unit: 1653
Appln. No.:	10/631,439	Examiner: To Be Assigned
Filed:	July 30, 2003	
For:	TREATMENT OF ORGAN TRANSPLANT REJECTION	Attorney Docket No. 53663-5023

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02IV)

Applicant hereby petitions to make this application special because of Applicant is over 65 years of age.

As a showing of this fact, accompanying this Petition is:

[X] A declaration by the Applicant that he is over 65 years of age.

In accordance with 37 CFR § 1.102(c), no fee is required with this Petition.

Respectfully submitted,

SKURKOVICH *ET AL.*

December 16, 2003
(Date)

By: Kathryn Doyle

KATHRYN DOYLE, Ph.D, J.D.
Registration No. 36,317
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: (215) 963-5000
Direct Dial: (215) 963-4723
Facsimile: (215) 963-5001
E-Mail: kdoyle@morganlewis.com
Attorney for Applicants

/dp
Enclosure(s) Declaration of Simon Skurkovich Pursuant to 37 CFR 1.102(c)

1914770_1.DOC

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1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Tracee Eidenschink	: DECISION ON REQUEST FOR
Patent Number	: 7604621	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/631,444	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **618** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of :
Roosli, et al. :
Application No. 10/631,457 : DECISION ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. INC-0015 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 23, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed August 2, 2006. A Notice of Abandonment was mailed on February 23, 2007.

A review of the application file reveals the presence of an amendment filed on February 14, 2007. The Amendment was made timely by including a Certificate of Mailing dated February 2, 2007, and by including an authorization to charge any necessary fees (e.g. a three month extension of time) to counsel's deposit account. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

As the three month extension of time was never charged to counsel's deposit account, $510 has now been charged to Deposit Account No. 06-1130.

The matter is being forwarded to Group Art Unit 2613 for consideration of the amendment filed February 14, 2007 (Certificate of Mailing dated February 2, 2007).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
John Campbell et al :
Application No. 10/631,471 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 021111-000700US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed February 25, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 26, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,491	07/31/2003	Jeffrey W. Ruberti	00403-8001.US02	1205

90611 7590 04/15/2010

Cambridge Polymer Group, Inc.
Perkins Coie LLP. 607 Fourteenth Street, NW
Washington, DC 20005

EXAMINER	
CHEUNG, WILLIAM K	
ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
04/15/2010	ELECTRONIC

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

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

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

jisacson@perkinscoie.com
dmayhew@perkinscoie.com
patentprocurement@perkinscoie.com

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wk

APR 15 2010

Mailed :

In re Application of
Ruberti et al.
Serial No. 10/631,491
Filed: July 31, 2003
For: Systems And Methods For Controlling And Forming Polymer Gels

DECISION ON PETITION

This is a decision on Appellants' Petition under 37 CFR 41.3 to request that the Notice of Non-Compliant Appeal Brief be withdrawn. The Examiner on January 25, 2010 considered the Brief filed on November 25, 2009 to be defective for failure to comply with 37 CFR 41.37(c)(1).

Appellant filed the November 25th brief pursuant to the notice in 73 FR 70282 (November 20, 2008), which instructs Appellants to file briefs under the 2008 version of the rules. On November 20, 2008 [73 FR 70282], the Office published a clarification notice on the effective date provision. The clarification notice states that the Office will not hold an appeal brief as non-compliant solely for following the new format set forth in the notice published on June 10, 2008, in the Federal Register (Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals; Final Rule, 73 FR 32938 (June 10, 2008), 1332 Off. Gaz. Pat. Office 47 (July 1, 2008)).

On December 22, 2009, the USPTO filed advanced notice of proposed rule making [74 FR 67987]. Because the USPTO is now considering the final rule anew, and in light of the potential modifications to the final rule, for purposes of consistency, the Office will now no longer accept appeal briefs in the new format. Therefore, appeal briefs filed on or after 30 days from the publication of the December 22. 2009 Federal Register notice must comply with the current 37 CFR 41.37. For clarity, this notice refers to three sets of Board Rules: (1) The "current board rules" published in 37 CFR 41.1 *et seq.* (2007); (2) the "final rule" published on June 10, 2008 [73 FR 32938], the effective date of which is delayed; and (3) potential modifications to the board rules published in this notice for the purpose of soliciting comments from the public. The current rules in effect are the current board rules as published in 37 CFR 41.1 *et seq.* (2007).

The Appeal Brief was filed on November 25, 2009 and is considered compliant.

DECISION

The petition is **GRANTED**.

The Examiner is directed to allow the application to proceed in the appeal process and to have the Notice of Non-Compliance withdrawn.

/JACQUELINE STONE/

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

John P. Isacson
Cambridge Polymer Group, Inc.
Perkins Coie LLP. 607 Fourteenth Street, NW
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OFFICE OF PETITIONS

In re Application of :
Ian Sayers :
Application No. 10/631,493 : DECISION ON PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 021599-000300US :

This is a decision on the petitions, filed October 14, 2005 and October 19, 2005, which are collectively 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 in July of 2005. 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:

the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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.

Since the record indicates that petitioner was charged $750 for the petition for revival on October 14th and again on October 19th, the $750 overcharge will be credited to petitioner's deposit account.

The Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

Retta Williams
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

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of :
Ian Sayers, et al. :
Application No. 10/631,494 :
Filed: July 31, 2003 :
Attorney Docket No. 021599-000400US :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petitions, filed October 12, October 13 and October 17, 2005, which are collectively 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 in July of 2005. 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:

the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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.

Since the record indicates that petitioner was charged $750 for the petition for revival on October 12th, October 13th and again on October 17th, the $1,500 overcharge will be credited to petitioner's deposit account.

The Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

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

Retta Williams

Retta Williams
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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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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SEP 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Antonio Barrero Ripoll, et al. :
Application No. 10/631,496 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 12183-3 : 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 March 10, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Trevor K. Copeland does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

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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DAVIS & BUJOLD
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER NH 03101-1151

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MAY 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Peter Tiesler et al :
Application No. 10/631,504 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. ZAHFRI P541US :

This is a decision on the petition, filed April 28, 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3681 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Jianchao Wu et al	:	
Application No. 10/631,543	:	DECISION GRANTING PETITION
Filed: July 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TEGI0012	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 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 September 5, 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 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

DATE 9-26-07

APPLICATION NUMBER 18/631543

DOC CODE IMIS

DOC DATE 9-26-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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 : September 26, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/631,543**

Applicant(s) : Jianchao Wu et al
Application No. : 10/631,543
Filed : July 30, 2003

The above-identified application has been assigned Patent No. 7,280,962 and an issue date of October 9, 2007.

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 October 9, 2007:

"All reference to Patent No. 7,280,962 to Jianchao Wu et al of Washington for SYSTEM AND METHOD FOR DISAMBIGUATING PHONETIC INPUT appearing in the Official Gazette of October 9, 2007 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

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OFFICE OF PETITIONS

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

In re Application of
Mark Kerns et al.
Application No. 10/631,572
Filed: July 30, 2003
Attorney Docket No. 35693.830006.US0

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 6, 2003.

The petition is GRANTED.

The above-identified application was filed on July 30, 2003, without an executed oath or declaration and naming Mark Kerns, C.J. King and Sean Sullivan as co-inventors.

Accordingly, on October 28, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. A two month period for reply was set.

In response, on November 6, 2003, the instant petition under 37 CFR 1.47(a), a declaration executed only by co-inventors Kerns and King was filed claiming that co-inventor Sullivan refused to execute the declaration. Co-inventor Sullivan's last known address and the required fees were also submitted. The petition bears proof that the application papers were sent to Mr. Sullivan and that by way of a registered mail return receipt, proves that the application papers had been delivered/received by Mr. Sullivan.

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 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 1.47(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.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEAN SULLIVAN
843 RACQUET LANE
BOULDER, CO 80303

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JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Mark Kerns et al.
Application No. 10/631,572
Filed: July 30, 2003
For: SHOE TIGHTENING SYSTEM

Dear Mr. Sullivan:

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:
HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN R. ROSS
TREX ENTERPRISES
10455 PACIFIC CENTER COURT
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of :
Peter Martin, et al. :
Application No. 10/631,592 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 486 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, 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.

Petitioner is advised that as of December 8, 2004, the Petition fee for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is $750 for a small entity. Petitioner remitted $685 for the petition fee on December 20, 2004; therefore, the deficiency of $65 is due upon the filing of the "renewed petition." It is also noted that the $65 fee for late oath or declaration surcharge was not submitted with the instant petition. For petitioner's convenience, a copy of the notice to file missing parts of Nonprovisional Application, is enclosed.

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 Window located at:

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Notice to File Missing Parts of Nonprovisional Application

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

JOHN R. ROSS
TREX ENTERPRISES
10455 PACIFIC CENTER COURT
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of :
Peter Martin, et al. :
Application No. 10/631,592 : ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. 486 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath or Declaration; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

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

HEWLETT PACKARD COMPANY
P O BOX 272400,
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY
ADMINISTRATION
FORT COLLINS, CO 80527-2400

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MAR 30 2007
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In re Application of

Bhatti, et al.

Application No. 10/631,609

Filed: July 31, 2003

Attorney Docket No. 100204421-1

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 6, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 7, 2006. A Notice of Abandonment was mailed on February 23, 2007.

The amendment filed February 14, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2165 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

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, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Bozidar Ferek-Petric	: DECISION ON REQUEST FOR
Patent Number	: 7620446	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/631,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PET. DEC.

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 31 2004

VP
PAPER NO. ___

In re Application of
William E. Campbell
Serial Number: 10/631,616
Filed: July 31, 2003
For: SEAWEED-BASED PRODUCT FOR TREATING LIQUID WASTE, TOGETHER WITH METHOD FOR MAKING AND USING THE SEAWEED-BASED PRODUCT

PETITION UNDER M.P.E.P.708.02 III and IV

This is in response to the petition filed July 31, 2003 requesting that the above-identified application be granted Special Status under Sections 708.02 III and IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 III and IV of the MPEP is granted because criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

William A. Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

OLIVE & OLIVE, P.A.
500 MEMORIAL STREET
PO BOX 2049
DURHAM NC 27702

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)
6736550	2004-05-18	10631633	2003-07-31	PAT048US

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	/Kevin J. Carroll/	Date (YYYY-MM-DD)	2008-07-11
Name	Kevin J. Carroll	Registration Number	36384

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 record s.

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. 6736550
Issue Date: May 18,2004
Application No. 10631633
Filed: July 31,2003
Attorney Docket No. PAT048US

:

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

:

This is a decision on the electronic petition, filed July 11,2008 ,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 11,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Takeshi Okada, et al. :
Application No. 10/631,640 : ON PETITION
Filed: July 31, 2003 :
Atty Docket No.: 12852-018001 / 103168-US-00 :
:

This is a decision on the petition, filed April 4, 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 2, 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

[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 application is being referred to Technology Center AU 2883 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FISH & RICHARSON, P.C.
CITIGROUP CENTER
52ND FLOOR
153 EAST 53RD STREET
NEW YORK, NY 10022-4611

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. 021505

Brian M. Dugan
Dugan & Dugan, PC
55 South Broadway
Tarrytown, NY 10591

Appl No.: 10/631,650
Inv: Lerner et al.
Filed: July 31, 2003
For: Substrate Centering Apparatus and Method

DECISION ON PETITION UNDER *37 CFR 1.48*

This is a decision on the applicant's "Petition to Correct And/Or Add to Originally Named Inventors to an application " under 37 CFR 1.48 filed August 30, 2004. The applicant requests that the names of Avi Tepman and Donald Olgato be added to the list of inventor as originally filed, namely, Alexander Lerner.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48, the petition is hereby **granted**.

A copy of this decision is being forwarded to OIPE for scanning and amending the PALM record accordingly wherein the actual inventor or inventors will be updated. The case will then be sent to the patent corps for further action on the merits.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

June 21, 2005

Jon Gibbons
Fleit, Kain, Gibbons,
Gutman, Bongini & Bianco
One Boca Commerce Center
551 Northwest 77th Street, Suite 111
Boca Raton, Fl 33487

In re Application of:
Albino Pidutti, et al
Serial No.: 10/631,670 On Petition
Filing Date: July 31, 2003
For: **CIRCUIT FOR THE PROGRAMMABLE PROTECTION OF OUTPUT OVERVOLTAGES IN A POWER FACTOR CORRECTOR**

In response to the petition received on February 28, 2005, 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 28, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned October 29, 2004.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts of Nonprovisional Application mailed August 28, 2004.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/25/09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10631681 Patent No.: 7109981

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Comments: C o C is approved as shown

SPE AU 2629 — 12/11/09

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN B. MAEBIUS
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	DECISION ON PETITION
Application No. 10/631,722	:	TO WITHDRAW
Filed: August 1, 2003	:	FROM RECORD
Attorney Docket No. 40923-0130US1	:	

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 26, 2004.

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

A review of the file record indicates that on May 5, 2004 the power of attorney to Foley and Lardner LLP was revoked by the applicants 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: Immunomedics, Inc.
300 American Road
Morris Plains NJ 07950

UNITED STATES PATENT AND TRADEMARK OFFICE

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Roger D. Hersch
Ecole Polytechnique Federale de Lausanne
IC/LSP
Lausanne 1015 CH SWITZERLAND

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Hersch et al. :
Application No. 10/631,743 : ON PETITION
Filed: August 1, 2003 :
Title: Prediction Model For Color Separation, Calibration and Control of Printers :

This is a decision on the petition filed December 1, 2003, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of July 23, 2003, rather than the presently accorded filing date of August 1, 2003.

The petition is **DISMISSED**.

The application was filed on August 1, 2003. However, on October 29, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date of August 1, 2003 but page 2 of the specification appeared to have been omitted.

In response, page 2 of the specification and the present petition were filed on December 1, 2003. Petitioner contends page 2 of the specification was included in the original application papers filed on August 1, 2003.

The argument that page 2 of the specification was filed in the present application on August 1, 2003, is not persuasive. The PTO file is the official record of the papers originally filed in this application. A review of the official file reveals that page 2 of the specification was not filed on August 1, 2003. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of evidence. Petitioner relies upon his recall of routine events which occurred more than three months earlier and are not more persuasive than the record of what was filed as shown in the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a

receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Applicants have failed to provide a postcard receipt or any evidence to establish page 2 of the specification was received in the Office on August 1, 2003.

Applicants have indicated they do not wish to have the application accorded a later filing date to incorporate page 2 of the specification. Accordingly, a new filing date will not be accorded.

A preliminary amendment renumbering the pages of the specification should be submitted prior to the first Office Action.

Applicants also argue they are entitled to an earlier filing date of July 23, 2003. Applicants contend they mailed the above-identified application via DHL but due to the change of address of the Patent and Trademark Office from Washington , DC to Arlington, VA DHL was not able to deliver the application in time.

Applicants' argument has been considered but it is not persuasive. The U.S. Patent and Trademark Office issued an Official Gazette Notice regarding the change of correspondence address on April 22, 2003 indicating the change in correspondence address would go into effect on May 1, 2003. Applicants' lack of knowledge of the change of correspondence address and DHL's inability to deliver the patent application does not warrant the granting of the above-identified application an earlier filing date.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 1, 2003 using the application papers received in the Office on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition 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

Roger D. Hersch
Ecole Polytechnique Federale de Lausanne
IC/LSP
Lausanne 1015 CH SWITZERLAND

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Hersch et al. :
Application No. 10/631,743 : ON PETITION
Filed: August 1, 2003 :
Title: Prediction Model for Color :
Separation, Calibration and Control
of Printers

This is a decision on the petition filed October 13, 2004, requesting in effect, that page 2 of the specification be considered as part of the original disclosure filed on August 1, 2003.

The application was filed on August 1, 2003. However, on October 29, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date of August 1, 2003 but page 2 of the specification appeared to have been omitted. A petition was dismissed on August 25,2004.

The petition is accompanied by a copy of applicants' return postcard which lists 56 pages of specification, claims and abstract.

Applicant's postcard receipt is prima facie evidence that 56 pages of specification (description and claims) were received on August 1, 2003, but page 2 was not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 2 of the specification was received on August 1, 2003, as shown in applicants' file, and later misplaced in the office.

The petition is Granted. No petition fee is due.

Since the page 2 of the original specification cannot be located in the Office, page 2 of the specification supplied on December 1, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 1, 2003, using substitute page 2 of the specification supplied on December 1, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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
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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Blum et al. :
Application No. 10/631,774 : DECISION ON PETITION
Filed: 1 August, 2003 :
Atty Docket No. P-9032-US :

This is a decision on the petition filed on 28 July, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 February, 2006, for failure to timely file a reply to the non-final Office action mailed on 3

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

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

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

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

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

November, 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 16 May, 2006.

Petitioners have filed an amendment to the claims as the required reply.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 28 July, 2006, was submitted more than three (3) months after the end of the period for reply to the Office communication mailed on 3 November, 2005, and therefore is unnecessary. The extension of time fee paid on 28 July, 2006, will be credited to counsel's deposit account as authorized.

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.[3] 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 address in the petition is different from the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The petition fee will be charged to counsel's deposit account.

This application is being referred to Technology Center Art Unit 1743 for further processing.

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

[3] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

cc: PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK NY 10036

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JUL 26 2005

TECHNOLOGY CENTER 3600

Leong C. LEI
1867 Ygnacio Valley Road
PMB #1008
Walnut Creek CA

In re Application of
Shih-Sheng Yang
Application No. 10/631,779
Filed: August 01, 2003
For: DECORATIVE ZIPPER TAB CONSTRUCTION WITH ELASTIC STRING OF HIGH TENSION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on April 06, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on July 02, 2004. A Notice of Abandonment was mailed on February 23, 2005.

Applicant's petition indicates that the Office action was never received. In support thereof applicant has provided a log of papers received. This is not considered to be a docket record.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around Ocotober 02, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed July 02, 2004 was not received or placed in the file for application 10/631,779. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around October 02,2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed July 02, 2004 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/rjc 07/21/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2006

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/631781 Patent No.: 7,053,922 B2

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**.

Elisha Evans

Certificates of Correction Branch

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE 2861 **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
www.uspto.gov

Erik B. Cherdak & Associates, LLC
Post Office Box 84146
Gaithersburg, MD 20878

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Juan M. Rozo, et. al. :
Application No. 10/631,788 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. 079.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed December 16, 2004.

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.

The application file is being referred to Technology Center Art Unit 3723, 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

Commissioner for Patents
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P.O. Box 1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Etsuo Koike et al :
Application No. 10/631,808 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. Q76776

This is a decision on the petition, filed February 2, 2005, 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 December 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3725 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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P.O. BOX 19928
ALEXANDRIA, VA 22320

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Yasuo Harada et al :
Application No. 10/631,814 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. 116748

This is a decision on the petition, filed November 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 November 17, 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 3747 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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OCT 0 1 2009

Eckhard H. Kuesters
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

September 27, 2009

In re Application of:
Toru KAMBAYASHI, et al.
Application No. 10/631,866
Filed: August 1, 2003
Attorney Docket No. 239067US2SRD DIV

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the petition filed on March 31, 2008 under 37 CFR 1.181(a)(3) requesting the Commissioner to invoke his supervisory authority to require the Examiner to consider the prior art cited in the Information Disclosure Statement filed on August 1, 2003.

A review of the record reveals that Applicant filed an Information Disclosure Statement on August 1, 2003. The examiner initially never acknowledged or made of record the Information Disclosure Statement.

However since the filing of the petition, the examiner corrected the oversight and considered the Information Disclosure Statement on May 09, 2008.

Therefore, Applicant's requested relief has been given.

The petition is thus DISMISSED as being moot.

Telephone inquiries should be directed to Calvin Loyd Hewitt II, Supervisory Patent Examiner, at (571) 272-6709.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

sm/clh: 09/27/09

SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/16/07

TO SPE OF : ART UNIT 3768

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/631872** Patent No.: **7077808**

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. 183

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: Review of file indicated claims 19-22 belong in the patent claim set as re-numbered as patent claim 18-21 by applicant.

_____ SPE _____ Art Unit

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ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Nandi, et al. : DECISION ON APPLICATION FOR
Application No. 10/631,874 : PATENT TERM ADJUSTMENT
Filed: July 31, 2003 :
Atty. Dkt. No.: G-33302P1 :

This is a decision on the "PETITION UNDER 37 CFR § 1.705(b) FOR PATENT TERM ADJUSTMENT UNDER" timely filed April 14, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The PAIR screen will be adjusted to reflect a Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due of 122 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant requests that the Determination of Patent Term Adjustment be corrected from the zero day determination indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed February 23, 2005 to a determination of 122 days.

The Office initially determined a PTA of zero days based on zero days of Office delay and 168 days of applicants' delay.

Applicants, however, argue that there was no failure to engage in reasonable efforts to conclude prosecution and that there was an adjustment of 122 days attributable to the Office under 37 CFR 1.702(a)(2).

A review of the application history reveals that the Office errantly entered December 9, 2004 as the date a response to the non-final Office action was filed instead of June 24, 2004, as indicated on the reply contained in the official application file. Accordingly, at the time of allowance, there was no failure to engage in reasonable efforts to conclude prosecution, as argued by applicants.

However, an adjustment of 122 days can be attributed to the Office under 37 CFR 1.702(a)(2). The delay began October 26, 2004, the day after the date that is four months after the date a reply to the non-final Office action was filed, and ended February 23, 2005, the date Notice of Allowance was mailed.

In view thereof, at the time of allowance, applicants were entitled to an adjustment of 122 days, as argued.

The Office acknowledges receipt of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

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SANDOZ INC
506 CARNEFIE CENTER
PRINCETON NJ 08540

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of
Indranil Nandi et al.
Application No. 10/631,874
Filed: July 31, 2003
Attorney Docket No. **G-33302P1**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 25, 2008, 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 July 2, 2007. A response was filed October 2, 2007 but by Advisory Action of January 16, 2008, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that the previously filed amendment be accepted as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1623 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

---

[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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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
David S. Taubman :
Application No. 10/631884 :
Filing or 371(c) Date: 07/29/2003 :
Attorney Docket Number: :
10991918-2 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", filed January 24, 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 May 25, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on August 26, 2006. A Notice of Abandonment was mailed November 29, 2006.

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 2624 for re-mailing of the Office communication.

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 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
10/631,886	07/11/2003	2841	827	254-094-CIP-5	7	35	7

CONFIRMATION NO. 1819

J. Scott Denko
Andrews & Kurth, L.L.P.
Suite 1700
111 Congress Ave.
Austin, TX 78701

CORRECTED FILING RECEIPT

OC000000014017914

Date Mailed: 10/06/2004

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)

James W. Cady, Austin, TX;
Julian Partridge, Austin, TX;
James Douglas Wehrly JR., Austin, TX;
James Wilder, Austin, TX;
David L. Roper, Austin, TX;
Jeff Buchle, Austin, TX;

Assignment For Published Patent Application

Staktek Group, L.P.

Power of Attorney:

J. Scott Denko--37606

Domestic Priority data as claimed by applicant

This application is a CIP of 10/453,398 06/03/2003
which is a CIP of 10/005,581 10/26/2001 PAT 6,576,992
This application 10/631,886
is a CIP of 10/457,608 06/09/2003
which is a CIP of 10/005,581 10/26/2001 PAT 6,576,992

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2003

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/631,886

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Low profile chip scale stacking system and method

Preliminary Class

361

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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1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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OFFICE OF PETITIONS

In re Application of Morrison :
Application No. 10/631,901 : Decision on Petition
Filing Date: July 31, 2003 :
Attorney Docket No. 34887US1 :
For: Coating for a Chainsaw Chain :

This is a decision on the petition under 37 CFR 1.137(b) filed January 9, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 20, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 21, 2005.

Petitioner contends the Office action was never received. Petitioner correctly notes the Office failed to send the Office action to the proper address. The Office notes the Office action was returned undelivered.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $1,500 will be credited to petitioner's deposit account.

Technology Center Art Unit 3724 will be informed the application has been revived and the examiner will further consider the merits of the application 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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OCT 13 2006

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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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 AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/631,923
	Filing Date	July 31, 2003
	First Named Inventor	Raya Levin et al
	Art Unit	1761
	Examiner Name	TBA
	Attorney Docket No.	4517-4002

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

Please withdraw me as attorney or agent for the above identified patent application, 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 27123

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

The client has retained new counsel and requested that we transfer all of the matters previously handled by Morgan & Finnegan, LLP to King & Spalding, LLP.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to: Kenneth H. Sonnenfeld, Esq.

☐ The address associated with Customer Number: ☐

or

☒ Firm or Individual Name	King & Spalding, LLP				
Address	1185 Avenue of the Americas				
City	New York	State	New York	Zip	10036-4003
Country	USA				
Telephone	212 556 2100	Email	ksonnenfeld@kslaw.com		
Signature	Richard C. Komson				
Name	Richard C. Komson	Registration No.	27,913		
Date:	October 13, 2006	Telephone No.	212 415 8700		

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.

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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.

Approved 11-29-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

1024172 v1

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NEW YORK NY 10036-4003

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OFFICE OF PETITIONS

In re Application of :
Raya Levin, et al. :
Application No. 10/631,923 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. 13697-105006 :

This is a decision in response to the petition under 37 CFR 1.182, filed November 7, 2006, to change the order of the names of the inventors. The requisite petition fee is being charged to counsel's deposit account as authorized.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Kevin W. Lang
2. Raya Levin
3. James W. Dibble
4. Gregory B. Murphy

A Corrected Filing Receipt with the desired change in the order of the names of the inventors is enclosed.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of :
HARA, Shinichi :
Application No. 10/631,927 : DECISION GRANTING PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1232-5091 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 28, 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 November 21, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Karen Creasy for

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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/13/07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/631941 Patent No.: 7169667

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 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. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

MICHAEL LEBENTRITT
SUPERVISORY PATENT EXAMINER

SPE

2812
Art Unit

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SUITE 1100
WASHINGTON, DC 20001

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Kossida, et al. :
Application No. 10/631,958 :
Filed: August 1, 2003 :
Attorney Docket No. 004974.00951 :

DECISION GRANTING PETITION

This is a decision on the petition filed September 17, 2004, to correct the application filed date from the currently accorded date of December 19, 2003, to August 1, 2003.

On August 1, 2003, the application was deposited.

On October 22, 2003, the Office of Initial Patent Examination mailed the Notice stating a filing date had been accorded the application, but that the oath or declaration and filing fee were missing. The Notice also indicated that Figures 1 and 2 as described in the specification appeared to have been omitted. With respect to the omitted figures, the Notice allowed a non-extendable period for reply of two months from its mailing date. On December 19, 2003, petitioner filed a response to the Notice and alleged the Figures 1 and 2 did accompany the original application papers, but, even if the figures were not located, the application was complete on filing because the application incorporated a prior application in its entirety. because drawings did not accompany the original disclosure. Obviously seeing only the omitted figures, the Office of Initial Patent Examination changed the filing date accorded the application from August 1, 2003, to December 19, 2003.

It has been determined that drawings are not, in fact, necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 16, 18, 21, 24, 33, 38, 41, 57, 66, 73, and 74 are method claims. The present application is, therefore, deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of August 1, 2003.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 1, 2003. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of Figures 1 and 2. The Office of Initial Patent Examination will issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

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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APR 0 3 2006

OFFICE OF PETITIONS

Banner & Witcoff
1001 G Street
Suite 1100
Washington DC 20001

In re Application of
Kossida et al.
Application No. 10/631,958
Filed: August 1, 2003

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on December 27, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 164 days to 305 days.

Applicants' petition to correct PTA is **GRANTED.** The Office will adjust the PTA at the time of the mailing of the notice of allowance to reflect THREE HUNDRED AND FIVE (305) days. The Office will provide a copy of the adjusted PTA determination with this decision.

Applicant argues that the Office calculated the 14 month rule under 37 CFR 1.702(a)(2) because the Office improperly used the filing of the application as December 19, 2003 rather than the date of August 1, 2003. Applicants assert that they filed a petition to correct the filing date to the correct date of August 1, 2003. Accordingly, applicant assert that the proper amount of PTA at the time of the mailing of the notice of allowance is three hundred and five days.[1]

Applicant arguments as well as calculations are persuasive. The record reflects that the Office did grant applicants' petition to correct the filing date from December 19, 2003 to August 1, 2003. The Office failed to change the filing date in PALM to August 1, 2003 and accordingly the Office error led the miscalculation of the PTA. The Office was required to file an action under 35 U.S.C. 132 or 151 within 14 months of the date of August 1, 2003 not within fourteen months of December 19, 2003. Accordingly, three hundred and five (305) days is the correct amount of PTA at the time of the mailing of the notice of allowance.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuance of the application will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

The Office has assessed the $200.00 fee. No additional fees are required in deciding this petition matter.

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[1]Applicants assert that the three hundred and five days is based upon the beginning date of October 2, 2004 and ending on August 2, 2005.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

/Kery Afe/

Kery Friesr
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation

PALM INTRANET

Day : Saturday
Date: 4/1/2006
Time: 20:12:31

PTA Calculations for Application: 10/631958			
Application Filing Date:	12/19/2003	PTO Delay (PTO):	164
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	305
PTO Delay Adjustment:	141		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	04/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	141		
73	09/27/2005	MAIL NOTICE OF ALLOWANCE			
72	09/27/2005	MAIL EXAMINER'S AMENDMENT			
71	09/19/2005	ISSUE REVISION COMPLETED			
70	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	09/19/2005	EXAMINER'S AMENDMENT COMMUNICATION			
68	09/15/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	09/19/2005	NOTICE OF ALLOWABILITY			
65	12/19/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	08/29/2005	DATE FORWARDED TO EXAMINER			
63	08/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
62	08/02/2005	MAIL RESTRICTION REQUIREMENT	164		-1
61	08/01/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
60	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
59	11/08/2004	PETITION DECISION - GRANTED			
58	09/17/2004	PETITION ENTERED			
57	09/17/2004	WORKFLOW INCOMING PETITION IFW			
56	08/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
55	08/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
54	03/22/2004	PRELIMINARY AMENDMENT			
53	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	06/21/2004	APPLICATION RETURN FROM OIPE			
51	06/21/2004	APPLICATION RETURN TO OIPE			

50	06/21/2004	APPLICATION RETURN FROM OIPE			
49	06/21/2004	APPLICATION IS NOW COMPLETE			
48	12/19/2003	DRAWING PRELIMINARY AMENDMENT			
47	06/21/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
46	06/21/2004	APPLICATION RETURN TO OIPE			
45	06/21/2004	APPLICATION RETURN FROM OIPE			
44	06/21/2004	APPLICATION IS NOW COMPLETE			
43	06/21/2004	APPLICATION RETURN TO OIPE			
42	06/21/2004	APPLICATION RETURN FROM OIPE			
41	06/21/2004	APPLICATION IS NOW COMPLETE			
40	06/21/2004	APPLICATION RETURN TO OIPE			
39	06/21/2004	APPLICATION RETURN FROM OIPE			
38	06/21/2004	APPLICATION IS NOW COMPLETE			
37	06/21/2004	APPLICATION RETURN TO OIPE			
36	06/21/2004	APPLICATION RETURN FROM OIPE			
35	06/21/2004	APPLICATION IS NOW COMPLETE			
32	06/21/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
31	06/21/2004	APPLICATION RETURN TO OIPE			
30	06/16/2004	APPLICATION RETURN FROM OIPE			
29	06/17/2004	APPLICATION IS NOW COMPLETE			
28	06/16/2004	APPLICATION RETURN TO OIPE			
27	06/16/2004	APPLICATION DISPATCHED FROM OIPE			
26	06/16/2004	APPLICATION IS NOW COMPLETE			
25	03/22/2004	ADDITIONAL APPLICATION FILING FEES			
24	03/22/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
21	02/24/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
20	12/19/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

In re Application of :
Daniel L. Hamilton, et al. :
Application No. 10/631,972 : DECISION ON REQUEST
Filed: August 1, 2003 : TO WITHDRAW
Attorney Docket No. 3350-121E : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 29, 2005.

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 CFR § 1.136(a).

The request was signed by Alfred A. Stadnicki on behalf of all the attorneys/agents of record who are associated with Customer Number 020457.

All attorneys/agents associated with the Customer Number 020457 have been withdrawn. Accordingly, 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.

While assignee attempted to intervene in the above-identified application, the power of attorney filed July 22, 2005 does not comply with 37 CFR 3.73(b) 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 comply with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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. A courtesy copy of this decision is being mailed to the address noted in the request to withdraw as attorney and the address noted in the power of attorney filed July 22, 2005.

Applicant should note that there is no outstanding Office action that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DANIEL L. HAMILTON
5985 HOMESTEAD CT.
HILLIARD, OH 43026

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPARTMENT)
CHECKFREE CORPORATION
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WILLIAM R. SILVERIO
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ATLANTA, GA 30309-3996

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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	:	
Hamilton et al.	:	DECISION ON PETITION
Application No. 10/631,973	:	TO WITHDRAW
Filed: August 1, 2003	:	FROM RECORD
Attorney Docket No. 3350-121B	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 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 Bucci
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.)
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OFFICE OF PETITIONS

In re Application of :
Hamilton et al. :
Application No. 10/631,973 : ON APPLICATION FOR
Filed: August 1, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 23952-0106

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on September 2, 2009, which is treated as an application for patent term adjustment filed under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1463 days, not 1203 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

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SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Daniel Lee Hamilton	: DECISION ON REQUEST FOR
Patent Number	: 7653598	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/631,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 05/18/2010

Applicant : Daniel Lee Hamilton
Patent Number : 7653598
Issue Date : 01/26/2010
Application No: 10/631,973
Filed : 08/01/2003

: 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 **1438** 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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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Mail Date: 04/21/2010

Applicant	: Christopher J. Calhoun	: DECISION ON REQUEST FOR
Patent Number	: 7592017	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/631,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1712** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/632,002	07/31/2003	2613	934	2002P12442US01	7	23	3

CONFIRMATION NO. 2314

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

CORRECTED FILING RECEIPT

OC000000012511912

Date Mailed: 05/03/2004

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)

Anurag Mittal, Plainsboro, NJ;
Nikolaos Paragios, Plainsboro, NJ;
Visvanathan Ramesh, Plainsboro, NJ;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/400,185 08/01/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/28/2003

Projected Publication Date: 07/01/2004

Non-Publication Request: No

Early Publication Request: No

Title

Robust stereo-driven video-based surveillance

Preliminary Class

348

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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C/O GREENBERG TRAURIG LLP
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

In re Application of :
Scott WATSON, et al. :
Application No. 10/632,003 : DECISION ON PETITION
Filed: July 30, 2003 : TO MAKE SPECIAL
For: **SYSTEM FOR THE DELIVERY AND DYNAMIC PRESENTATION OF LARGE MEDIA ASSETS OVER BANDWIDTH CONSTRAINED NETWORKS** :

This is a decision on the petition filed November 26, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

June 18, 2004

JUN 21 2004

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

In re Application of:	:	
Harold A. Evans, *et. al.*	:	
Application No. 10/632,021	:	DECISION ON PETITION
Filed: July 31, 2003	:	TO MAKE SPECIAL
For: WHEEL-MOUNTED TIRE PRESSURE GAUGE	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 12, 2003, 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 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 IV, must include evidence showing that the applicant is sixty-five (65) years of age or more, such as a birth certificate or applicant's statement . No fee is required for this petition.

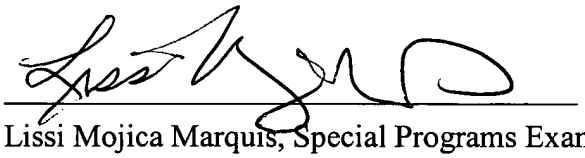
The petition does not indicate which applicant is sixty-five (65) years of age or more, not does it include any evidence, as indicated above, that applicant is sixty-five (65) years of age or more.

In view of the above, the petition is **dismissed.**

Should petitioner desire reconsideration, petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Inquires regarding 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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Andrew J. Ries	: DECISION ON REQUEST FOR
Patent Number	: 7647111	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of :
LASSERRE :
Application No.: 10/632,076 : DECISION ON PETITION
Filing Date: July 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: TI-35424 (1962-05403) :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 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 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time of one month under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on October 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 an amendment which places the case in condition for allowance; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed January 22, 2007 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2189 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS TX 75265

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of :
LASSERRE :
Application No.: 10/632,076 : DECISION ON PETITION
Filing Date: July 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: TI-35424 (1962-05403) :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 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 final Office action mailed July 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time of one month under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on October 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 a Notice of Appeal; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed July 22, 2008 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2189 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel, et. al. :
Application No. 10/632,084 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. TI-35428 (1962-05407) :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to respond to the non-final Office action mailed December 14, 2005. A Notice of Abandonment was mailed on July 14, 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)(III)(C) and (D). The instant petition lacks item(s) (1).

In response to the non-final Office action mailed on December 14, 2005, the Office acknowledges receipt of an Amendment filed on July 24, 2006. However, the Examiner objected to the Oath/Declaration or Application Data Sheet (ADS) requiring petitioner to comply with the requirements of 37 CFR 1.63(c). Further, the Examiner states that the Oath/Declaration or ADS fails to acknowledge the filing of any foreign application and that a new Oath/Declaration or ADS, which identifies the present application by application number and filing date is required. Consequently, revival of the above application cannot occur until a complete response to the non-final Office action has been received.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 18 2008

In re Application of :
Gerard Chauvel, et. al. :
Application No. 10/632,084 : ON PETITION
Filed: July 31, 2003 :
Attorney Docket No. TI-35428 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application. The delay in responding is regretted.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, 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. However, 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.

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. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2138 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

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OFFICE OF PETITIONS

In re Application of :
Tirkkonen et al. :
Application No. 10/632089 :
Filing or 371(c) Date: 08/01/2003 :
Attorney Docket Number: :
59643-00238 : ON PETITION

This is a decision on the "Petition to Withdraw Abandonment," filed November 6, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 20, 2006, wherein no claims were allowed. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on December 20, 2006, and a Pre-Appeal Brief Request for Review. On January 23, 2007, in a Notice of Panel Decision from Pre-Appeal Brief Review, the Panel determined that all claims remained rejected, and the Application was deemed to proceed to the Board of Patent Appeals and Interferences ("Board"). Applicant filed an Appeal Brief on February 23, 2008. The Examiner filed an Answer on June 25, 2007. Applicant then filed a Reply Brief on August 27, 2007. The case was set before the Board, which affirmed the Examiner in a Decision mailed July 31, 2008.

Applicant filed and this Office received a Request for Continued Examination ("RCE") and Submission on September 25, 2008. A Notice of Abandonment was mailed October 8, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely RCE and Submission were filed, and that the holding of abandonment is, therefore, improper.

Applicable Law, Rules and MPEP

37 CFR § 1.114, Request for continued examination, states

> (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
> (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
> (b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

37 CFR § 1.304, Time for appeal or civil action, provides

> (a) (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences.

The MPEP 1214.06 states: "The proceedings in an application or *ex parte* reexamination proceeding are terminated as of the date of the expiration of the time for filing court action."

Analysis and conclusion

In this instance, after the Board Decision, mailed July 31, 2008, Applicant was given two months before proceedings in the application terminated. Office records reveal that Applicant timely filed a RCE and Submission on September 25, 2008. Accord 37 CFR § 1.304(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The petition fee has been refunded to Applicant's deposit account.

The application will be referred to Technology Center Art Unit 2618 for processing of the RCE and Amendment, and for further examination in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Stefan Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7577682	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DICKSTEIN SHAPIRO LLP
Richard LaCava
1177 Avenue of the Americas
New York, NY 10036-2714

Mail Date: 04/21/2010

Applicant	: David R. Fitzpatrick	: DECISION ON REQUEST FOR
Patent Number	: 7593886	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/632,164	08/01/2003	Matthew S. Montei	J-3782

CONFIRMATION NO. 1885

28165
S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

OC000000012688334

Date Mailed: 05/17/2004

DECISION ON PETITION UNDER 37 CFR 1.136(b)

This is a decision on the petition under 37 CFR 1.136(b) filed on May 11, 2004 requesting an extension of the time period for response for three months beyond the set period for reply, which would expire on May 28, 2004.

The petition is granted.

The period set for reply to the Notice to File Missing Parts dated 10/28/03 is extended for 3 months and will now expire on 08/28/04.

If any further extensions of time are sought under the provisions of 37 CFR 1.136(b) petitioner is reminded that the showing and request must be filed on or before 08/28/04. There can be no assurance that any further request for extension of time under 37 CFR 1.136(b) will be favorably treated.

Janice Tippett, OIPE

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

Mail Date: 04/21/2010

Applicant	: Arthur R. Hair	: DECISION ON REQUEST FOR
Patent Number	: 7617392	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

HOWARD COHEN
1105 THE ALAMEDA
BERKELEY CA 94707-2501

In re Patent No. 6,928,812
Issue Date: August 16, 2005
Application No. 10/632,170
Filed: July 30, 2003
Attorney Docket No. 71503

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 13, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 16, 2009, for failure to pay the three and one-half year maintenance fee.

Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
Farrokh Ayazi, Siavash Pourkamali, and Seong Yoel No
Application No. 10/632,176
Filed: July 31, 2003
Attorney Docket No. 062020-1440
Title: CAPACITIVE RESONATORS AND METHODS OF FABRICATION

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 24, 2003.

On July 31, 2003, the application was deposited, identifying Farrokh Ayazi, Siavash Pourkamali, and Seong Yoel No as joint inventors. The application was deposited without a fully executed oath or declaration. On October 29, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a new declaration would be required[2], along with a surcharge of $130.00. This Notice set a two-month period for reply.

On November 24, 2003, the Office received a copy of the previously submitted declaration along with an extra page which supplies the previously omitted information, the surcharge, a statement of facts, print-outs of three online search results, copies of a letter and e-mails which were sent to

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) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The declaration was not executed by the third joint inventor. Furthermore, the declaration listed neither a residence nor a post office address for the non-signing inventor.

the non-signing inventor, and an employment agreement. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. *As petitioner has set forth that the non-signing joint inventor cannot be reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* Although Petitioner has proven that he conducted several online searches, it is noted that the final page of the employment agreement (entitled "Georgia Institute of Technology, Personal Data Form") contains a name, address, and phone number in the D.C. Metropolitan area and lists this person as the emergency contact for the non-signing inventor. It would seem that the first step in undertaking a diligent effort to locate this non-signing inventor would be to attempt to make contact with this individual, as it is highly likely that he or she might be apprised as to the whereabouts of the non-signing inventor. Unfortunately, it does not appear that this individual was contacted.

For this reason, 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, and must contain evidence that Petitioner followed the lead provided to him by the Personal Data Form discussed above. 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 §1.47(a)."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to the undersigned at (703) 305-0011.

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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
5 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

COPY MAILED

JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Farrokh Ayazi, Siavash Pourkamali, and Seong	:	
Yoel No	:	DECISION ON RENEWED
Application No. 10/632,176	:	PETITIONS UNDER
Filed: July 31, 2003	:	37 C.F.R. §§ 1.183, 1.48(A), AND
Attorney Docket No. 062020-1440	:	1.47(A)
Title: CAPACITIVE RESONATORS AND	:	
METHODS OF FABRICATION	:	

This is in response to the renewed petitions under 37 C.F.R. §§1.47(a)[1], and 1.48(a)[2], each filed concurrently on April 7, 2004. The latter is properly treated as a joint petition under 37 C.F.R. §§1.48(a) and 1.183, requesting both that the non-signing inventor be deleted as an inventor, and

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1A 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) either
   a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
   b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:

1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

that 37 C.F.R. §1.48(a)(2) be waived. It is noted that the renewed petition contains a certificate of mailing dated April 5, 2004.

On July 31, 2003, the application was deposited, identifying Farrokh Ayazi, Siavash Pourkamali, and Seong Yoel No as joint inventors. The application was deposited without a fully executed oath or declaration. On October 29, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a new declaration would be required[3], along with a surcharge of $130.00. This Notice set a two-month period for reply.

On November 24, 2003, the original petition under 37 C.F.R. §1.47(a) was received, and was dismissed via the mailing of a decision on February 5, 2004, for failure to meet the fourth requirement above.

The renewed petition under 37 C.F.R. §1.183:

The Petitioner has submitted the petition fee, which has been charged to Petitioner's deposit account, as authorized in the petition. Petitioner has also established that a diligent effort was undertaken to locate the individual who is to be deleted as an inventive entity. The last known address of the same was submitted in the original petition.

37 C.F.R. §1.48(a)(2) sets forth that a statement is required "from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part." It has been determined that justice requires that the requirement that the Petitioner provide a statement from the person being deleted as an inventor be suspended.

As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(2) is hereby **WAIVED**, to the extent set forth above.

The renewed petition under 37 C.F.R. §1.48(a):

With the renewed petition, Petitioner has submitted a request to correct the inventorship that sets forth the desired change in the same, the processing fee (which has been charged to Petitioner's deposit account, as authorized in the renewed petition), an acceptable declaration, and the written consent of the assignee. As set forth above, the requirement that a statement be provided from the person being deleted as an inventor has been waived.

Therefore, the petition under 37 C.F.R. §1.48(a) is **GRANTED**. The previously non-signing joint inventor will no longer be listed as an inventor associated with the above-identified application.

A corrected filing receipt has been enclosed with this decision.

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3 The declaration was not executed by the third joint inventor. Furthermore, the declaration listed neither a residence nor a post office address for the non-signing inventor.

The petition under 37 C.F.R. §1.47(a):

In light of the deletion of the Seong Yoel No, and the associated correction of inventorship, the petition under 37 C.F.R. §1.47(a) is hereby **DISMISSED AS MOOT**.

After the mailing of this decision, the application will be forwarded to Technology Center 2800 for further processing.

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

Encl. Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-25-06

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 7023065

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.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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:

approved by SPE

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER

11/14/06

Art Unit 2811

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Muthu Senthil	: DECISION ON REQUEST FOR
Patent Number	: 7653621	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Muthu Senthil
Patent Number : 7653621
Issue Date : 01/26/2010
Application No: 10/632,190
Filed : 07/30/2003

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/6/09

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 10632207 Patent No.: 7065697 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** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

2/11/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/10/2010

Applicant	: Gerard Chauvel	: DECISION ON REQUEST FOR
Patent Number	: 7634643	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/632,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **319** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

06-06-06

IFW

PET DEC

Attorney Docket Number DWHP200001

In the United States Patent & Trademark Office

In re application of: Donna Walker
Application No.: 10/632,231 Group No.: 1742
Filed: July 31, 2003 Examiner: IP, SIKYIN
For: Methods and Apparatus for Stress Relief Using Multiple Energy Sources

Approved 7/14/06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Commissioner for Patents
P.O. Box 14S0 Alexandra, VA
22313-1450

REQUEST FOR WITHDRAWAL AS ATTORNEY (37 C.F.R. §10.40(c))

NOTE: If a period has been set for response and the period may be extended without a showing of cause pursuant to 37 CF.R. § 1.136(a) by filing a petition for extension of time and fee. the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed. M.P.B.P, § 402.06, 8th ed.

WARNtNG; If the Request for Withdrawal is filed after mailing of the Notice of Allowance it can result in a reduction In patent term under 37 CF.R. § 1.704(c)(10). Therefore, care should be taken to resolve the question of withdrawal before this possibility.

CERTIFICATION UNDER 37 CF.R. § 1.10*
(When using Express Mail, the Express Mail label number is mandatory; Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

X deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R § 1.8(a)

~~with sufficient postage as first class mail.~~

37 CF.R. § 1.10 *

X as "Express Mail Post Office to Addressee"
Mailing Label No EV 690752308 (mandatory)

Kristi A Murphy
Signature

Date: 6/5/06

Kristi A. Murphy
(type or print name of person certifying)

** Only the date of filing (§ 1.8) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 7.703(5?. Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAIL

APR 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Germaine, et al.
Application No. 10/632,239
Filed: 07/31/2003
For: METHOD AND SYSTEM FOR ANALYZING THE SECURITY OF A FACILITY

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 July 31, 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.

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

BEST AVAILABLE COPY

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MCDERMOTT WILL & EMERY LLP
2049 CENTURY PARK EAST
38th Floor
LOS ANGELES, CA 90067-3208

Mail Date: 04/20/2010

Applicant	: Joseph Dean Touch	: DECISION ON REQUEST FOR
Patent Number	: 7653746	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,249	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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MCDERMOTT WILL & EMERY LLP
2049 CENTURY PARK EAST
38th Floor
LOS ANGELES, CA 90067-3208

Mail Date: 05/17/2010

Applicant : Joseph Dean Touch
Patent Number : 7653746
Issue Date : 01/26/2010
Application No: 10/632,249
Filed : 08/01/2003

: 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 **1087** 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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Alexandria, VA 22313-1450
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WK

Mailed: 6-30-06

In re application of	:	
Kent C. Burr	:	DECISION ON
Serial No. 10/632,261	:	PETITION
Filed: August 01, 2003	:	
For: Method For Generating Optical Anisotropy In Scintillators Using Pulsed Lasers	:	

This is a response to the PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION, filed November 10, 2005. The petition requests that the period for reply for the Office Action mailed July 8, 2005 be reset. Applicant asserts that a Revocation of Power of Attorney and Change of Address was sent to the USPTO on February 11, 2005 and applicant has provided a copy of the Post Card showing that the USPTO received the change of address on February 15, 2005. Applicant has a copy of the Office Action, which was obtained when Applicant discovered its existence through PAIR and Applicant has filed a Response to the Restriction Requirement concurrently with this petition request.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee). A review of the revocation of power of attorney and change of address shows that it was filed for application 10/623,261 to Group Art Unit **2882**.

The Petition is **DISMISSED**.

As a change of address has not been filed in this application, the Office Action mailed July 8, 2005 was sent to the current address of record.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jean K. Testa
General Electric Company
Building K1, Room 3A62
Niskayuna, New York 12309

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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

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OFFICE OF PETITIONS

In re Application of :
Kent Charles BURR :
Application No. 10/632,261 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. 129640-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2006, to revive the above-identified application.

The petition is **DISMISSED as moot** for the reasons stated below.

The record shows that a non-final Office action (Restriction Requirement) was mailed on July 8, 2005, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before August 8, 2005, or on or before January 8, 2006, with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a).

A review of the file record discloses that a petition to reset the period for reply to the July 8, 2005 Office action and a reply (election and amendment) to the July 8, 2005 Office action were received on November 10, 2005 (bearing certificate of mailing dates of November 8, 2005). The petition to reset the period for reply also contains an authorization to charge any additional fees required under 37 CFR 1.16 or 1.17 to Deposit Account No. 07-0868. At the time of submission of the petition to reset the period and the concurrently filed reply to the July 8, 2005 Office action, extensions of time were still available.

The rule at 37 CFR 1.136(a)(1) states:

> If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17 are filed * * *.

The rule at 37 CFR 1.136(a)(3) further states, in part:

> * * * An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a construction petition for an extension of time in any concurrent reply requiring a petition for an extension of time under the paragraph for its timely submission.

In view of the above, this application is not in fact abandoned in view of the authorization appearing in the petition filed November 10, 2005 to reset the period for reply to the July 8, 2005 Office action to charge any additional required fees under 37 CFR 1.17(a). Accordingly, as this application is not in fact abandoned, the filing of the petition to revive on July 12, 2006 is unnecessary and is dismissed as involving a moot issue.

As authorized in the November 10, 2005 petition, the three (3) month extension of time fee of $1,020 will be charged to Deposit Account No. 07-0868. Further, as a petition to revive in this application is unnecessary, the $1,500 fee assessed to the petition will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1732 for appropriate action in the normal course of business on the reply received November 10, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :
Gregory et al. :
Application No. 10/632,268 : DECISION ON PETITION
Filed: July 31, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 42922-RBRES :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. 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.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. 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 3752 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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 :
William Leon ELLIOTT et al. :
Application No. 10/632,281 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. PC20553A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 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 October 7, 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 8, 2005.

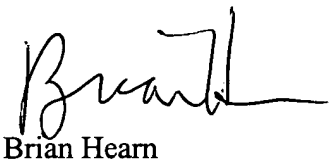
The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 18, 2003 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 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Application No. 10/632,281

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 1614 for appropriate action on the concurrently filed amendment.



Brian Hearn
Petitions Examiner
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Dr.
Chicago IL 60606

In re Application of
Sumio Kuroda, et al.
Appl. No.: 10/632,293
Filed: August 1, 2003
For: **PREFORMAT METHOD FOR MAGNETIC RECORDING MEDIUM, MAGNETIC RECORDING MEDIUM, AND MAGNETIC RECORDING AND REPRODUCING APPARATUS**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed August 25, 2006, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the response submitted on August 14, 2006 (date-stamped received on August 18, 2006) be expunged from the record. Petitioner states that the information submitted (a client letter filed with the response) 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.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material (the August 14, 2006 response, date-stamped as received August 18, 2006) has been closed from the electronic file.

Krista Zele
Special Programs Examiner
Technology Center 2600
Communications

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Paper No.

Law Offices of Daniel J. Noblitt, LLC
3370 North Hayden Road, Suite 123
Box 258
Scottsdale, AZ 85251

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of:	:	
Stantchev et al.	:	
Application No. 10/632,303	:	DECISION REFUSING
Filed: August 1, 2003	:	STATUS UNDER
Title of Invention: METHODS AND APPARATUS FOR IMAGING	:	37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(b), filed March 31, 2004, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. The petition is properly treated under 37 CFR 1.47(a), 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 **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(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. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 1, 2003, without an executed oath or declaration. This Office mailed a Notice to File Corrected Application Papers (hereinafter "Notice") on October 29, 2003, requiring, *inter alia*, an oath or declaration in compliance with 37 CFR 1.63.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that diligent effort has been made to receive the nonsigning inventor's cooperation. This assertion is supported by the Declaration of Daniel J. Noblitt, wherein Mr. Noblitt avers that he has attempted to contact the nonsigning inventor about eight to ten times over the past five months. Mr. Boblitt asserts that he has forwarded various documents relating to this application to the nonsigning inventor, and has also discussed the need for the nonsigning inventors participation in the application with the nonsigning inventor's attorney, who believes the nonsigning inventor has moved to Australia, inhibiting the ability of the attorney to effectively communicate with the nonsigning inventor.

It is initially noted that 37 CFR 1.47(b) does not apply in this situation. Thirty seven CFR 1.47(b) applies when none of the inventors has executed the declaration, and then allows a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

Alternatively, 37 CFR 1.47(a) is applicable where at least one inventor has executed the declaration, and is filed to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

There is no provision in the regulations that allow for an entity that has a partial or majority interest in an application to proceed with the application on behalf of a nonsigning inventor.

Within 37 CFR 1.47(a), two separate and distinct circumstances exist that to allow an inventor (or inventors) to proceed with the examination of an application without the signature of the inventor(s). The first is where an inventor refuses to sign an application after having been presented with the application for signature, and the second is where an inventor cannot be found or reached after diligent effort. Both situations are separate and distinct and require separate and distinct steps in order to allow a petition under 37 CFR 1.47(a) or (b) to be granted. In this instance, Applicant avers that diligent effort has been made to receive the nonsigning inventor's cooperation.

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) and (2) as set forth above.

As to item (1), if an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A review of the oath or declarations filed with the instant petition reveals that each oath or declaration is a separate oath or declaration that lists only one inventor. There are no page numbers on the oath or declaration to indicate that there may be more inventors, there is no indication that the separate declarations are part of a single document.

As required by 37 CFR 1.63, the (single) oath or declaration must identify each inventor to the other inventors. "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with each of the other inventors *indicating them by name*." MPEP § 602. (Emphasis supplied).

Further to this, the Manual for Patent Examining Procedure ("MPEP"), section 409.03(a) provides:

> All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors *with the signature block of the nonsigning inventor(s) left blank* may be treated as having been signed by all the available inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

MPEP 409.03(a).

The Declaration must list all inventors and be signed by the available inventors. *See*, MPEP 409.03. A properly executed oath or declaration is required.

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

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Paper No.

Law Offices of Daniel J. Noblitt, LLC
3370 North Hayden Road, Suite 123
Box 258
Scottsdale, AZ 85251

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of:	:	
Stantchev et al.	:	
Application No. 10/632,303	:	DECISION GRANTING
Filed: August 1, 2003	:	STATUS UNDER
Title of Invention: METHODS AND APPARATUS FOR IMAGING	:	37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed August 19, 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, Egidio Ciancioso, cannot be found or reached after diligent effort.

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 (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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Paper No. 090204

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

SEP 7 2004

In re Application of:
JOSEPH LAWRENCE CHOVAN *et al.*
Serial No.: 10/632,307
Filed: August 01, 2003
Attorney Docket No.: **N0650-00638**

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 06, 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. There is no outstanding Office action at this time.

The request is **APPROVED**.

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 Jose G. Dees at (571) 272-1569.

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

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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Keith Anthony Washington
2101 10th Avenue
Oakland, CA 94606

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of
Washington
Application No. 10/632,323
Filed: August 4, 2003
For: ADDRESS BILLING SYSTEM

: LETTER

This letter is in response to the communications submitted by applicant on November 4, 2004 and December 17, 2004.

The above-identified application was filed August 4, 2003. The Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application ("Notice") on September 10, 2004. The Notice indicated that the application had not been accorded a filing date because application was deposited without drawings in accordance with 35 U.S.C. 113 (first sentence).

The Notice indicated that the filing date of the instant application would be the date of receipt of the drawings. The Notice also stated any assertions that the drawings were submitted or are not necessary for a filing date must be by way of a petition directed to the Office of Petitions accompanied by the required petition fee.

On November 4, 2004, applicant responded to the Notice by submitting a copy of a drawing sheet. A supplemental response was submitted December 17, 2004. Applicant states that the application as deposited included a drawing. Applicant's letter was not styled as a petition, nor did it include the required petition fee. Applicant did, however, request that the application be accorded the original filing date. Applicant's letter included a copy of date stamp return postcard. The postcard stated as follows: "The following received today: Divisional Application for Keith A. Washington for ADDRESS BILLING SYSTEM consisting of 12 sheets declaration signed and authorization to charge my credit card for the amount of $375.00." Applicant further states in his letter dated December 17, 2004 that he is of the opinion that "a drawing is not necessary to complete the application."

The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

The identifying data on the postcard should include: (A) applicant 's name(s); (B) title of invention; (C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing; (D) whether oath or declaration is included; (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and (F) amount and manner of paying the fee. A return postcard should be attached to each patent application for which a receipt is desired.
It is important that the return postcard itemize all of the components of the application. *If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). See*, MPEP 503, emphasis added.

The copy of the postcard receipt submitted herewith is not accepted as *prima facie* evidence of submission of the drawing sheet in question as the postcard is not sufficiently itemized.

Nevertheless, as stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually

not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application as filed included three claims. The claims as filed are both vague and ambiguous. However, when the claims are viewed in the light most favorable to applicant, the claims can be construed to explicate a "process" within the meaning of MPEP 601.01(f). As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the Notice of Incomplete Application mailed September 10, 2004 was mailed in error and is hereby **withdrawn**.

Accordingly, the application is entitled to a filing date of August 4, 2003.

The drawings submitted with the instant petition have not been entered into the application. If applicant desires to have the drawing entered, applicant is advised to submit a preliminary amendment prior to the issuance of the first Office action to amend the application to include the drawing.

The application will be processed with only the papers present on filing with a filing date of August 4, 2003, without drawings as part of the original disclosure.

No fee is due in connection with this matter. Applicant, however, is advised that in accordance with the Notice, contentions such as those made by applicant that the drawing was submitted and/or was not necessary requires a petition and petition fee, along with a request for a refund of the petition fee. Despite the fact that the instant communication did not include a petition or a petition fee, the instant response has been issued as a courtesy because had applicant followed the Office procedure set forth in the Notice and submitted both a petition and the petition fee, the petition fee would have been refunded upon withdrawal of the Notice.

Applicant, however, is advised that in future any and all communications submitted in response to a Notice from the Initial Patent Examination Division must fully comply with the Notice. Specifically, should a Notice set forth a requirement for a petition and/or petition fee, any communication submitted without said petition and/or petition fee will be subject to dismissal without prejudice prior to a decision on the merits of the action complained of by applicant.

This application is being returned to the Initial Patent Examination Division for further processing with a filing date of August 4, 2003.

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

Alesia M. Brown
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: John R. Ferguson	: DECISION ON REQUEST FOR
Patent Number	: 7590971	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1810** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NOV 09 2006

Group 3700

Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re application of
Franklin Thompson

Serial Number: 10/632,338
Filed: Auguest 1, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **CENTRIFUGAL PUMPS WITH INTERNAL COOLING**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700
571-272-3750

rt/ 11/9/06

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROY A. EKSTRAND
3158 REDHILL AVE., STE 150
COSTA MESA CA 92626

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DEC 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Antonucci, Louis A.	:	
Application No. 10/632,339	:	ON PETITION
Filed: August 1, 2003	:	
Attorney Docket No. 03542	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 26, 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.

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

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

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Chanda ZAVERI :
Application No. 10/632,349 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 8035-002-US-DIV3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Dr. Chanda Zaveri, Activor Corporation
20695 Western Avenue #128
Torrance, CA 90501

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OFFICE OF PETITIONS

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

In re Application of

ZAVERI
Application No. 10/632,349
Filed: July 31, 2003
Attorney Docket No. 8035-002-DIV3

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, 2006.

The request is **APPROVED**.

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

The request was signed by Michael B. Farber on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Chanda Zaveri at the address indicated below.

There is an outstanding Office action mailed May 22, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DR CHANDA ZAVERI**
ACTIVOR CORPORATION
20695 WESTERN AVENUE #128
TORRANCE, CA 90501

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

September 22, 2004

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH, PA 15143

In re Application of:
SNORRI INGVARSSON
Serial No.: 10/632365
Filed: July 31, 2003
For: MAGNETICALLY LINED CONDUCTORS

DECISION *SUA SPONTE* VACATING OFFICE ACTION

This is a decision, *sua sponte*, vacating the Notice of Allowance mailed September 15, 2004 in the above-identified application. The Notice of Allowance is not intended for the instant application and was issued in error.

Although no petition or request has been filed, the Notice of Allowance is hereby vacated. No reply from the applicant is necessary at this time. Inconvenience to the applicant is regretted.

The application file is being returned to the examiner of record where it awaits examination in its turn.

Any inquiry regarding this decision should be directed to VanThu Nguyen, Primary Patent Examiner, at (571) 272-1881.

VanThu Nguyen
Art Unit 2824

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

KEVIN J. MORIARTY
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark Johnston	:	
Application No. 10/632,370	:	ON PETITION
Filed: August 1, 2003	:	
Attorney Docket No. 17001-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 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 November 5, 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 February 6, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3671.

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

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JUN 2 8 2004

OFFICE OF PETITIONS

Applicant: Smith et al.
Appl. No.: 10/632,377
Filing Date: August 1, 2003
Title: METHOD OF ISOLATING STEM CELLS
Attorney Docket No.: 045331/262602
Pub. No.: US 2004/0023318 A1
Pub. Date: February 5, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 3, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in independent claim 14, wherein "on" is misprinted as "or" in the phrase "said stem cells have a higher concentration of said detectable product than non-stem cells present in said population, and separating said stem cells from said non-stem cells of said population on the basis of said higher concentration of detectable product" is misprinted as "said stem cells have a higher concentration of said detectable product than non-stem cells present in said population, and separating said stem cells from said non-stem cells of said population or the basis of said higher concentration of detectable product."

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

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error noted by requestor wherein "on" is misprinted as "or" is an Office error, but the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in reading the claim. The mistake is a minor typographical error which is clearly understandable from reading the claim in which the term is used, as terms are not read in a vacuum and it is clearly understood to be "on the basis of." Additionally, the phrase "on the basis of " is a common phrase in the art. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of this 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: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

AUG 12 2004

MATTHEW MCKENNIREY
5433 ALTA VISTA RD.
BETHESDA MD 20814

In re Application of :
Chanda B. Saveri :
Serial No.: 10/632,389 : STATUS LETTER
Filed: July 31, 2003 :
Attorney Docket No.: 37896.00002 :

This is in response to applicants' attorneys' request, filed July 9, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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 at Office facsimile number.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

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AUG 1 8 2006

OFFICE OF PETITIONS

In re Application of :
ZAVERI :
Application No. 10/632, 389 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 8035-002-US-DIV2 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

There is an outstanding Office action mailed May 22, 2006 that requires a reply from the applicant

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Dr. Chanda Zaveri, Activor Corporation
20695 Western Avenue
Torrence, CA 90501

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/6/08

TO SPE OF : ART UNIT 2145

SUBJECT : Request for Certificate of Correction for Appl. No.: 10632402 Patent No.: 7383306

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

2445
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW Aug-08

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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AUG 1 1 2008

In re Application of :
Parvathanathan Subrahmanya :
Application Number: 10/632411 :
Filing Date: 08/01/2003 : ON PETITION
Attorney Docket Number: 020133 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on June 14, 2008, for failure to timely submit the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on file a timely reply to the non-final Office action mailed on March 13, 2008, 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 June 24, 2008.

---

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

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

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

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

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the issue fee and petition fee is acknowledged. The publication fee will be charged to counsel's deposit account as authorized on the Fee(s) Transmittal.

The application is referred to the Office of Data Management for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/09

TO SPE OF : ART UNIT **1615 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/632,413** Patent No.: **7,357,940**

Attn: Casey Hagopian

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

MPW Woodward 1615

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/09

TO SPE OF : ART UNIT 1615 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/632,413 Patent No.: 7,357,940

Attn: Casey Hagopian

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

MPWoodward 1615

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

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Bernhard Kaltenboeck, et al. :
Application No. 10/632,426 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. 35721/265190 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, 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 14, 2004. A Notice of Abandonment was mailed April 28, 2005.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 1645, for further processing of the request for continued examination under 37 CFR 1.114 filed May 9, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 021306

DATE : January 18, 2006

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 6,976,816/ 10/632443

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:

SPE 3677 **Art Unit**

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)
6997068	2006-02-14	10632458	2003-07-31	DSC-PT012.1

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 m. konieczny/	Date (YYYY-MM-DD)	2010-03-02
Name	Joseph M. Konieczny	Registration Number	35806

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. 6997068
Issue Date: February 14,2006
Application No. 10632458
Filed: July 31,2003
Attorney Docket No. DSC-PT012.1

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

This is a decision on the electronic petition, filed March 2,2010 ,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 March 2,2010 . 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAIL

MAR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of :WATANABE
Application No. 10/632,467
Filed: AUGUST 1, 2003
For: METHOD OF MANAGING GENERATION OF BACKUP DATA AND SORTAGE CONTROL DEVICE USED THEREFOR

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed **November 12, 2004** under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in 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
571-272-3595

3/10/05

JC

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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
930 W. MAUDE AVE.
SUNNYVALE, CA 94086

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/632,475 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. N/A :

This is a decision on the papers styled, "Petition," filed October 7, 2004, which has been treated as a "Petition Under 37 CFR 1.53," requesting that the above-identified application be accorded a filing date of August 1, 2003, including six (6) sheets of drawings.

The application was submitted on August 1, 2003. However, on August 2, 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 October 7, 2004, the present petition was filed wherein petitioner argues that six (6) sheets of drawings were filed on August 1, 2003. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of six (6) sheets of drawings on August 1, 2003. A review of the application file indicates the presence of zero (0) sheets of drawings. It is assumed that missing sheets of drawings were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition will be refunded by treasury check.

This application will be returned to OIPE for further processing with a filing date of August 1, 2003, using the six (6) sheets of drawings, supplied on October 7, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061118

DATE : November 18, 2006

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 7,059,850

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: Cris Rodriguez **Art Unit** 3732

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

COPY MAILED
DEC 0 8 2008

In re Application of :
Jalan et al. :
Application No. 10/632484 :
Filing or 371(c) Date: 08/01/2003 :
Attorney Docket Number: :
M-15185 US : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed October 30, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 4, 2008. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 5, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence in accordance with the MPEP 711.03(c)[1].

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.

This application is being referred to Technology Center AU 2454 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.

[1] A review of Office records reveals that the Office action was inadvertently mailed to the prior (incorrect) correspondence address. Office records have been corrected to reflect the correct correspondence address.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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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MISHRILAL L. JAIN
11620 Masters Run
Ellicott City, MD 21042

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Geddes : DECISION ON PETITION
Application No. 10/632,503 :
Filed: August 4, 2003 :
Atty. Dkt. No.: GEDDES-8 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 31, 2003 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed October 30, 2003. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed October 25, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

This application will be forwarded to the Files Repository.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP - San Diego
101 WEST BROADWAY
SUITE 900
SAN DIEGO CA 92101-8285

COPY MAILED
DEC 22 2008

In re Application of	:	
Matos et al.	:	DECISION ON PETITION
Application No. 10/632,517	:	UNDER 37 CFR 1.78(a)(6)
Filed: July 31, 2003	:	
Atty Docket No. U1656-00007	:	
	:	

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. §119(e) FOR THE BENEFIT OF A PRIOR-FILED PROVISIONAL APPLICATION, 37 C.F.R. 1.78(c) filed July 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional application No. 60/399,834 filed July 31, 2002. Receipt of the status inquiry filed September 26, 2008 is acknowledged. This decision is made in light of the request for continued examination (RCE) filed October 30, 2008.

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), and must be filed during the pendency of the nonprovisional application. 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 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 Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR § 1.78(a)(5)(ii) expired without the claim having been submitted. Thus, the instant petition is appropriate. The petition includes the required surcharge and the required statement of unintentional delay.

A reference to the prior-filed application was included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(5)(iii). This amendment was filed on April 14, 2008. (To avoid a determination that applicants have not fully complied with the rule, it is recommended that applicants insert their reference in the first sentence of the specification immediately following the title of the application, and not use a sub-header such as "CROSS-REFERENCE TO RELATED APPLICATIONS" prior to the reference).

Moreover, a final Office action was mailed in this application on July 10, 2008 (and an amendment under 37 C.F.R. §1.116 was filed in response on July 18, 2008). On October 30, 2008, applicants submitted a Request for Continued Examination (RCE)(with fee and submission). The RCE is accepted for consideration of this amendment after mailing of a final Office action.

Additionally, this pending nonprovisional application was filed on July 31, 2003, which is within twelve months of the filing date of provisional application No. 60/399,834, which was filed on July 31, 2002, and for which priority is claimed. A review of the prior filed provisional application confirms that the filing fee was paid.

Thus, the reference submitted April 14, 2008 is being accepted for purposes of satisfying the requirements of 37 CFR 1.78(a)(6).

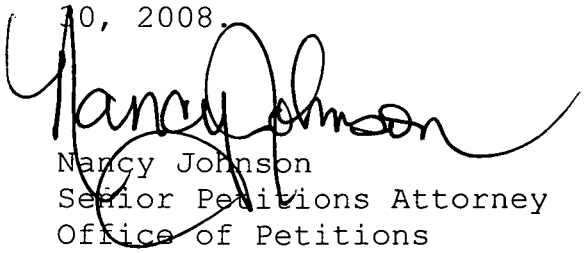
All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed application under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2626 for consideration by the examiner of i) the claim for benefit of priority under 35 U.S.C. § 119(e) of the prior-filed application as set forth in the amendment filed April 14, 2008, ii) the amendment directed to the claims filed July 18, 2008 in response to the final Office action mailed July 10, 2008, and iii) the request for continued examination (RCE) filed October 10, 2008.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/632,517	07/31/2003	2626	639	U1656-00007	41	2

CONFIRMATION NO. 4344

CORRECTED FILING RECEIPT

53897
DUANE MORRIS LLP - San Diego
101 WEST BROADWAY
SUITE 900
SAN DIEGO, CA 92101-8285

Date Mailed: 12/22/2008

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

Applicant(s)

Paulo Matos, Residence Not Provided;
Brian O'Connor, Residence Not Provided;

Power of Attorney: The patent practitioners associated with Customer Number 53897

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/399,834 07/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/632,517**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

System and method for enabling automated dialogs

Preliminary Class

704

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
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

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NOV 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Hee et al. : DECISION ON PETITION
Application No. 10/632,522 :
Filed: 1 August, 2003 :
Attorney Docket No. 83377.0008 :

This is a decision on the petition filed on 23 September, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on 31 December, 2003, for failure to file the statutory basic filing fee, an executed oath or declaration, and the surcharge for their late filing as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 30 October, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The present petition is accompanied by payment of the statutory basic filing fee, late filing surcharge, and petition fee, and submission of an executed oath or declaration.

The application 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) 272-3231.

DWood

Douglas I. Wood
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

FUESS & DAVIDENAS
17258 Amarillo Road
Ramona, CA 92065

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Saldivar, et al. :
Application No. 10/632,532 :
Filed: August 1, 2003 :
Attorney Docket No. RM 0001P :

DECISION GRANTING PETITION

This is a decision on the petition filed March 1, 2004, to accord the above-identified application a filing date of August 1, 2003.

On August 1, 2003, the application was deposited.

On December 29, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings. The instant petition was filed responsively on March 1, 2004.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 18 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, the petition is **granted.**

The petition fee of $130.00 will be refunded, in due course.

The seventeen sheets of drawings filed March 1, 2004, are noted.

The declaration filed March 1, 2004, is also noted.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 1, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

OIPE JC103
MAR 0 1 2004
PATENT & TRADEMARK OFFICE

PATENT
ATTORNEY DOCKET NO. RM 0001P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Enrique Saldivar	Art Unit:
Serial No.:	10/632,532	Examiner:
Filed:	8/01/2003	
Title:	Apparatus and Method to Measure Platelet Contractility	

San Diego, California
March 1, 2004

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is/are the following document(s) related to the above-identified patent application:

Petition to override Notice of Incomplete Nonprovisional Application filed under 37 CFR 1.53(b) provided by Initial Patent Examination Division communication mailed December 29, 2003. Also requested is establishment of the appropriate filing date of 08/01/2003, and refund of the $130.00 petition fee.

Papers submitted herein:
(X) Transmittal form
(X) Acknowledgement of Receipt Card
(X) Fee Transmittal
(X) Fee Check $ 130.00
(X) Response
(X) New copies of Drawings (17 pages)
(X) Evidentiary Documents

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date written below.

Joseph A. Davidenas — Date: March 1, 2004
Typed Name of Person Mailing Correspondence — Signature of Person Mailing Correspondence

03/05/2004 DTESSEM1 00000004 10632532

01 FC:1460 130.00 OP

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 4/6/04

2 Serial/Patent # 10/632,532

	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	—	3/1/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office Error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Kenya A. McLaughlin TITLE: Petitions Atty

SIGNATURE: Kenya A. McLaughlin PHONE: 305-1810

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kell DATE: 4-9-04

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:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

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NOV 29 2007

OFFICE OF PETITIONS

In re Patent No. 7,153,325	:	
Application No. 10/632,538	:	
Filed: August 1, 2003	:	ON PETITION
Issued: December 26, 2006	:	
Attorney Docket No. 14591.4001	:	

This is a decision on the petition filed August 30, 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.

Petitioner submitted the $100.00 Certificate of Correction fee with the instant petition. However, since petitioner previously submitted the fee on June 21, 2007, it is unnecessary. However, 37 CFR 3.81 requires a $130.00 processing fee, which will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned 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
Petitions Examiner
Office of Petitions

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

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
10/632,540	07/31/2003	2176	1080	03002/100L588-US1	3	30	2

CONFIRMATION NO. 2673

CORRECTED FILING RECEIPT

07278
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

OC000000012145701

Date Mailed: 03/22/2004

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)

David J. Earl, Cambridge, UNITED KINGDOM;
Adrian Ford, Hertfordshire, UNITED KINGDOM;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/400,077 07/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2003

Projected Publication Date: 07/01/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method for printing on the nearest printer

Preliminary Class

715

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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Steven M. McHugh
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston MA 02111

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JUL 1 9 2004

OFFICE OF PETITIONS

In re Application of :
Anafi et al. : DECISION REFUSING STATUS
Application No.10/632,547 : UNDER 37 CFR 1.47(a)
Filed: August 1, 2003 :
Attorney Docket No. 367264-102 :
Title of Invention: Optical Membrane Formation :
System and Method :

This is in response to the petition filed May 6, 2004 (certificate of mailing May 3, 2004), under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §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 C.F.R. §1.136(a).

The above-identified application was filed on August 1, 2003, without a signed oath or declaration. Accordingly, on November 3, 2003, a "Notice to File Missing Parts of Application" was mailed requiring, for the purposes of this decision, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on May 6, 2004, a petition, and a partially executed declaration were received. To make timely, a four month request for extension of time was filed with the accompanying fee.

A grantable petition under 37 C.F.R. §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 instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Rule 47 applicant indicates numerous phone calls and e-mails were used to get inventor Ramsay to sign the declaration. However, rule 47 applicant did not indicate a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the non-signing inventor. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Applicant should present copies of documentary evidence that would support a finding that the non-signing inventor has refused to execute the application papers i.e. copies of e-mails that were mailed to inventor where he failed to respond or indicated a refusal to sign the declaration.

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-5-09 Paper No.: _____

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/632,556 Patent No.: 7029406

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

FOR IFW FILES: Please Check Claims

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernie Yarb
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.

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

Comments: _____

Gene Kim
Digitally signed by Gene Kim
DN: cn=Gene Kim, c=US, o=PTO, ou=AU 3711, email=eugene.kim@uspto.gov
Date: 2010.02.18 14:23:26 -05'00'

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/632570 Patent No.: 7316979 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: _____

NADINE NORTON

Nadine Norton
SPE – 1792

1792
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSE JOHN VENNAT
400 CROOKED HOLLOW
EDMOND, OK 73034

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of
Vennat
Application No. 10/632,577
Filed: July 28, 2003
Attorney Docket No. P1714US01
For: DOWNHOLE TURBOMACHINES FOR HANDLING TWO-PHASE FLOW

LETTER

Dear Mr. Vennat:

You are named as the sole 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 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.

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 (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: David M. Sullivan, Esq.
Crowe & Dunlevy
Suite 1800
20 North Broadway
Oklahoma City OK 73102-8273

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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David M. Sullivan, Esq.
Crowe & Dunlevy
Suite 1800
20 North Broadway
Oklahoma City OK 73102-8273

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of
Vennat
Application No. 10/632,577
Filed: July 28, 2003
Attorney Docket No. P1714US01
For: DOWNHOLE TURBOMACHINES FOR HANDLING TWO-PHASE FLOW

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed November 17, 2003. The petition and accompanying papers were not promptly matched with the application file because the transmittal letter to the petition cited incorrect application no. 10/632,557. This error has been corrected.

The petition is granted.

Petitioner has shown that the non-signing inventor, Jose John Vennat, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney David M. Sullivan establishes that when the inventor was hand delivered the application papers on May 30, 2003, he expressly refused to sign the declaration and on June 27, 2003 the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioner has shown that Wood Group ESP, Inc. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Electrical Submersible Pumps, Inc., which later changed its name to Wood Group ESP, Inc.. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown 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 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 the Office of Initial Patent Examination for further processing.

Telephone inquiries 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

Commissioner for Patents
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HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of
SCHOENEBERGER, et al.
Application No. 10/632,615
Filed: July 31, 2003
Attorney Docket No. NUASI-00101

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2006.

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

A review of the file record indicates that the power of attorney to Thomas B. Haverstock of HAVERSTOCK & OWENS LLP has been revoked by the assignee of the patent application on October 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.**
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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
10/632,615	07/31/2003	Carl Schoeneberger	NUASI-00101

CONFIRMATION NO. 4771

OC000000021491256

28960
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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
10/632,615	07/31/2003	Carl Schoeneberger	NUASI-00101

CONFIRMATION NO. 4771

OC000000021491290

29053
DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

Date Mailed: 12/06/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 06/16/2010

Applicant	: Bradley J. Howard	: DECISION ON REQUEST FOR
Patent Number	: 7625460	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/632,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **280** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

0 9 FEB 2007

UNITED STATES PATENT and TRADEMARK OFFICE

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

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

In re Application of	:	DECISION ON
KAMLEITER et al	:	
Application No.: 11/632,631	:	
PCT No.: PCT/EP2004/010304	:	
Int. Filing Date: 15 September 2004	:	PETITION UNDER
Priority Date: 19 September 2003	:	
Attorney's Docket No.: 51659	:	
For: FILTER MEDIUM	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 16 January 2007.

BACKGROUND

On 15 September 2004, this international application was filed, claiming an earliest priority date of 19 September 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 19 March 2006. This international application became abandoned with respect to the United States at midnight on 19 March 2006 for failure to pay the required basic national fee.

On 16 January 2007, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. However, no executed declaration was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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

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JUN 29 2004

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

In re Application of	:	
Joseph R. Habert	:	
Serial No.: 10/632,642	:	DECISION ON
Filed: August 1, 2003	:	PETITON TO MAKE SPECIAL
For: Decorative Socks With Three	:	
Dimensional Ornaments and Related Indicia	:	

This is in response to applicants' petition filed May 26, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore 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 John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

Pet. Dec.

PTO/SB/83 (09-04)
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 AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	see attached sheet
Filing Date	see attached sheet 10/632644
First Named Inventor	see attached sheet
Art Unit	see attached sheet
Examiner Name	see attached sheet
Attorney Docket Number	see attached sheet

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
6/17/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 28453

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Applicant has requested transfer to another attorney/agent.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Erich E. Veitenheimer, Esq., PhD				
Address	Morgan Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW				
City	Washington	State	DC	Zip	20004
Country	United States				
Telephone	202-739-5691	Fax	202-739-3001		
Signature					
Name	James David Jacobs, Esq.	Registration No.	24,299		
Date	January 26,2005	Telephone No.	212-751-5700		

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.

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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.

Pet. Dec.

Application No.	First Named Inventor	Art Unit	Examiner Name	Docket Number
10/388,308	Kailing Wang	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-106
10/386,738	Kailing Wang	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-110
10/632,644	Andrew Gilbert	1743	SIEFKE, SAMUEL P	56104576-111
10/774,082	Dennis Rylatt	1641	COOK, LISA V	56104576-112
10/842,406	David Solomon	1711		56104576-120
09/887,371	Brendon Conlan	1753	PHASGE, ARUN S	56104576-22
09/887,208	Brendon Conlan			56104576-23
09/931,342	Brendon Conlan	1753	PHASGE, ARUN S	56104576-24
10/037,004	Brendon Conlan	1753	PHASGE, ARUN S	56104576-25
10/006,241	Brendon Conlan	1741		56104576-26
10/036,943	Brendon Conlan			56104576-27
10/085,658	David Solomon	1713	LIPMAN, BERNARD	56104576-32
10/146,596	Kailing Wang	1753	OLSEN, KAJ K	56104576-35
10/196,435	Elizabeth Seabrook	1753	PHASGE, ARUN S	56104576-37
10/234,423	Steven Botto	3762	BIANCO, PATRICIA	56104576-40
10/212,974	Lucy Ryan	1761		56104576-42
10/163,885	Gyula Vigh	1753	OLSEN, KAJ K	56104576-43
10/029,026	Philip Roeth	1753	PHASGE, ARUN S	56104576-50
09/990,549	Gyula Vigh	1753	OLSEN, KAJ K	56104576-51
10/029,014	Chenicheri Nair	1753	BARTON, JEFFREY THOMAS	56104576-52
09/470,822	GRACE SZE MAN CH	3762	BIANCO, PATRICIA	56104576-53
09/701,818	Dennis Rylatt	1641	COOK, LISA V	56104576-56
09/647,821	Grace Chan			56104576-57
09/978,997	David Ogle	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-61
09/972,436	David Ogle	1753	BARTON, JEFFREY THOMAS	56104576-66
10/167,540	Howard Manusu	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-69
09/787,368	Chenicheri Nair	1741	YILMAZ, ANGLOIS	56104576-71
09/961,591	Gyula Vigh	1753	OLSEN, KAJ K	56104576-78
10/000,473	Shaun Atchison	1753	OLSEN, KAJ K	56104576-79
09/837,678	David Ogle	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-82
09/743,018	Thomas Exner	1614	WALLACE, VONDA M	56104576-83
10/364,995	david solomon	1711	TRAN, THAO T	56104576-109
09/470,823	Brendon Conlan	1741	PHASGE, ARUN S	56104576-21
07/432,722	JOEL MARGOLIS	1102	RYSER, DAVID	56104576-36
09/645,956	David Solomon	1711	RIBAR, TRAVIS B	56104576-47
09/543,855	Howard Manusu	1743	NOGUEROLA, ALEXANDER STEPHAN	56104576-48
09/834,462	Brendon Conlan	1755	BROWN, JENNINE M	56104576-54
09/785,761	Grace Chan	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-55
09/546,743	Andrew Gilbert	1743	SIEFKE, SAMUEL P	56104576-60
09/837,677	Brendon Conlan	1753	NOGUEROLA, ALEXANDER STEPHAN	56104576-62
09/390,565	David Ogle	1743	NOGUEROLA, ALEXANDER STEPHAN	56104576-63
08/776,897	Thomas Exner	1743	SODERQUIST, ARLEN	56104576-67
09/532,654	David Solomon	1743	NOGUEROLA, ALEXANDER STEPHAN	56104576-70
08/535,126	JOEL MARGOLIS	1102	NOGUEROLA, ALEXANDER STEPHAN	56104576-73
09/000,117	Howard Manusu	1744	NOGUEROLA, ALEXANDER STEPHAN	56104576-74
07/949,293	JOEL MARGOLIS	1809	LUDLOW, JAN M	56104576-75
08/397,158	Thomas Exner	1211	GITOMER, RALPH J	56104576-76
29/101,666	David Ogle	2914	SIMMONS, IAN	56104576-80
29/121,396	Howard Manusu	2914	SIMMONS, IAN	56104576-81
09/601,073	Thomas Exner	1651	GITOMER, RALPH J	56104576-84
09/956,389	Grace Chan	1711	BOYKIN, TERRESSA M	56104576-86
10/265,798	Brendon Conlan	1753	DIAMOND, ALAN D	56104576-105
10/233,788	Kailing Wang	1645	SWARTZ RODNEY P	56104576-44
10/024,114	David Solomon	1713	PEZZUTO, HELEN LEE	56104576-49
10/016,577	Chenicheri Nair			56104576-68
09/853,814	Sarah Gee	1644	SAUNDERS, DAVID A	56104576-72
09/476,574	Grace Chan	1711	BOYKIN, TERRESSA M	56104576-85

10/632,644

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STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
SALT LAKE CITY UT 84111

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AUG 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Couto et al	:	
Application No. 10/632,645	:	DECISION GRANTING PETITION
Filed: August 1, 2003	:	
Attorney Docket No.: 51271/35:1	:	
Title of Invention: Adeno-Associated Vector Compositions For Expression of Factor VIII	:	

This is a decision on the petition filed July 13, 2005, requesting that a Notice Of Omitted Item(s) in a Nonprovisional Application("Notice") mailed October 18, 2004, be withdrawn.

The application was filed on August 1, 2003. However, on May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of August 1, 2003 but pages 13 and 16 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 63 pages of specification were filed including pages 13 and 16 were filed on August 1, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " Continuation Patent Application (63 pgs)".[1] The petition is further accompanied by a copy of pages 13 and 16 of the

[1]It is noted that petitioner has provided an itemized postcard receipt, which clearly identifies each component filed on the same day. See MPEP 503.

specification.

Applicant's postcard receipt is prima facie evidence that at least 63 pages of application papers, including pages 13 and 16 were received on August 1, 2003, but pages 13 and 16 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that pages 13 and 16 of the specification were received on August 1, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is **Granted**. Deposit account 50-2375 will be credited with the $400.00 petition fee.

Page 13 and 16 of the specification supplied on July 13, 2005, will be used for processing and examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **August 1, 2003** using the papers received on that date and the copy of pages 13 and 16 of the specification supplied on July 13, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAYER FORTKORT & WILLIAMS
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Andrew Strasser et al :
Application No. 10/632,670 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. PH01-00-04D CON :

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 30, 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 30, 2003.

The 37 CFR 1.137(b) petition fee of $750 has been charged to deposit account No. 50-1047.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Richard Giunta
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Mail Date: 04/21/2010

Applicant	: David Fusari	: DECISION ON REQUEST FOR
Patent Number	: 7660845	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOHN R. BENEFIEL
280 DAINES ST.
#100 B
BIRMINGHAM, MI 48009

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Victor Chun, et al. :
Application No. 10/632,692 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. DNY-111 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 formal drawings in a timely manner in reply to the Notice of Allowance/Notice of Allowability mailed January 31, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 2, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division 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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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
MARKS, Boaz et al. :
Application No. 10/632,706 : DECISION ON PETITION
Filed: August 01, 2003 : TO WITHDRAW
Attorney Docket No. **UCSFP011X1/2003-044** : 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 17, 2007.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 22798 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 5 2005

ANTHONY T. CASCIO, ESQ.
CASCIO & ZERVAS
423 BROADWAY AVE., SUITE 314
MILLBRAE CA 94030-1905

In re Application of:	:	
RONNY BAR-GADDA	:	
Application No. 10/632,708	:	DECISION ON PETITION
Filed: August 01, 2003	:	TO MAKE SPECIAL
Attorney Docket No. 00021-003	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 29, 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 the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VI: Energy.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VI, must be accompanied by statements under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. No fee is required for such a petition, 37 CFR 1.102(c).

The petition contains the required statements of how the invention materially contributions to the discovery or development of energy resources in accordance with M.P.E.P., Section 708.02, Item VI.

For the above stated reasons, the petition is GRANTED.

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

If the examiner determines that restriction is necessary, he/she will follow the established telephone practice to resolve the restriction. If applicant elects with traverse the application will be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

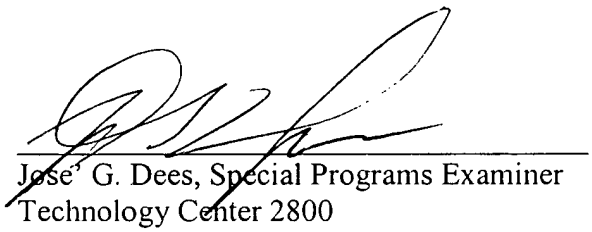
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent 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/he 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. Section 1309.

Inquiries regarding 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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Anthony T. Cascio
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423 Broadway Avenue – Suite 314
Millbrae, CA 94030-1905

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronny Bar-Gadda	:	DECISION ON REQUEST
Application No. 10/632,708	:	TO WITHDRAW FROM
Filed: August 1, 2003	:	RECORD
Attorney Docket No. 00021-003	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on January 11, 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.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: EDWARD S. WRIGHT
1100 ALMA STREET, SUITE 207
MENLO PARK, CA 94025

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Ronny Bar-Gadda :
Application No. 10/632,708 :
Filed: August 1, 2003 :
Attorney Docket No. 00021-003 :

DECISION ON REQUEST
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed by facsimile transmission on April 4, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Jonathan Alan Quine and the attorneys/agents associated with Customer No. 22798 do 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.

Further, the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40.. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

A courtesy copy of this decision is being mailed to the intervening assignee at the address listed below.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

Cc: Ronny Bar-Gadda
Bar-Gadda, LLC
121 Monroe Drive
Palo Alto, CA94306

Ronny Bar-Gadda
Bar-Gadda, LLC
18809 Cox Avenue - Suite 250
Saratoga, CA 95070

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Carson et al. :
Application Number: 10/632711 : DECISION ON PETITION
Filing Date: 08/01/2003 :
Attorney Docket Number: 023070-124010US :

This is a decision on the petition filed on 25 September, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 12 April, 2007, for failure to timely submit an appeal brief in response to the Notice of Appeal filed on 12 February, 2007. The Notice of Appeal was submitted in conjunction with an amendment after final rejection, also filed on 12 February, 2007, with a three (3) month request for extension of time in response to the final Office action mailed on 10 August, 2006, which set a three (3) month shortened statutory period for reply. On 10 September, 2007, an Adivsory Action Before the Filing of an Appeal Brief was mailed, stating

[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)).

that the reply fails to place the application in condition for allowance.

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The five-month extension request filed on 25 September, 2007, was submitted more than five (5) months after the end of the period for reply to the Notice of Appeal mailed on 12 February, 2007, and therefore is unnecessary. The extension of time fee paid on 25 September, 2007, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center Art Unit 1614 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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MINNEAPOLIS MN 55416

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AUG 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Wolf et al.	:	DECISION ON PETITION
Application No. 10/632,725	:	TO WITHDRAW
Filed: August 1, 2003	:	FROM RECORD
Attorney Docket No. 205-007US2	:	

This is a decision on the Requests to Withdraw as Attorney or Agent of Record under 37 C.F.R. § 1.36(b), filed September 18, 2008 and October 6, 2008.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioner was not appointed via Customer Number. The September 2008 request listed a Customer Number; however, it appears the practitioner attempted to correct this by submitting the October 2008 request. The October 2008 request, however, failed to indicate who is to be withdrawn, as the first section of the document was left blank.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GC

Mailed: 6-7-06

In re application of	:	
Miho et al.	:	
Serial No. 10/632,746	:	DECISION ON
Filed: August 1, 2003	:	PETITION
For: IMAGE FORMING APPARATUS AND TONER USED THEREIN	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, dated January 20, 2006.

On January 10, 2005, a non-final Office Action was mailed to Applicants. The Office Action contained a 112 second paragraph rejection of Claims 1 and 15 and a rejection under 35 USC 103 of Claims 1-25 over Ogawa and Thompson in view of Nishikiori.

A reply to the Office Action was filed on April 7, 2005. In the reply, Applicant amended Claims 1 and 15. The amendments to Claims 1 and 15 overcame the 35 USC 112 second paragraph rejection.

On December 13, 2005, a Final Office Action was mailed. All of the previous grounds of rejection were withdrawn. New grounds of rejection were added which included a 35 USC 102 (e) rejection of Claims 1-25 over newly cited art to Suzuki; a 35 USC 102(b) or alternatively a 35 USC 103 rejection of Claims 1-25 over newly cited art to Baba; a 35 USC 103 rejection of Claims 1-25 over newly cited art to Suzuki in view of Baba; and 35 USC 112 rejections of Claims 1, 5 and 19. The Examiner stated in the Final Office Action that the new grounds of rejection were necessitated by Applicant's amendments to the claims. On January 20, 2006, the present petition was filed.

Petitioner has argued that the finality of the last Office Action is improper in that Applicant's amendments did not change the scope of the claims but rather changed an unnecessary verbose description of the invention to a more direct recitation. Petitioner argues that the Examiner mis-interpreted the claim.

DECISION

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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).

Claim 1 examined in the Non-Final Office Action recited,

> "wherein the developing means performs development using toner in which, out of five materials of silica, titania, barium sulfate, fine polymer particles, and a lubricant, materials not including either the fine polymer particles or the barium sulfate are fixed as an external additive."

Amended Claim 1 examined in the Final Office Action recited,

> "wherein the developing unit performs development using toner on which materials of silica, titania, a lubricant and either fine polymer particles or the barium sulfate are fixed as an external additive."

Claim 15 examined in the Non-Final Office Action recited,

> "wherein materials for an external additive which is fixed on a surface of the toner includes, out of five materials of silica, titania, barium sulfate, fine polymer particles, and a lubricant, four materials not including either the fine polymer particles or the barium sulfate."

Amended Claim 15 examined in the Final Office Action recited,

> "wherein materials as an external additive which is fixed on a surface of the toner include silica, titania, a lubricant, either fine polymer particles or barium sulfate."

The amendments to Claims 1 and 15 overcame the 35 USC 112 rejection of the Non-Final Office Action.

Petitioner argues that the amendments to Claims 1 and 15 did not change the scope of the claims but rather changed an unnecessarily verbose description of the invention as presented in Claims 1 and 15 to a more direct recitation, that the original description used toner where out of five materials only materials which did not include fine polymer particles or did not include barium sulfate were used, that the Examiner mis-interpreted the claims as requiring all five materials be present which ignores the recitation "not including either the fine polymer particles or the barium sulfate", and that the intended invention to be claimed was to be the second toner and the third toner as described on page 13 of the Specification where the second toner does not contain fine polymer particles and the third toner does not contain barium sulfate.

These arguments are not persuasive. The amendments to the claims as set forth above do change the scope of the claims. As a result of the unclear claim language in Claims 1 and 15, the Examiner correctly rejected the claims under 35 USC 112, second paragraph, and clearly stated in the Non-Final Office Action a reasonable interpretation of the unclear claim language for examination purposes. The amendments to the claims both clarified the claim language in Claims 1 and 15 which caused the 35 USC 112 rejection and changed the scope of the claims by no longer requiring five

materials to be present with only four materials externally fixed. It is noted that the original disclosure does disclose an embodiment where all five materials are present. While Petitioner argues that the Examiner mis-interpreted the claims to include all five materials, such "mis-interpretation" is directly caused by the indefiniteness of the original claim language. It would not have been reasonable to expect the Examiner to predict that it was Applicant's intention to claim only the second and third embodiments disclosed in the Specification without clear indication from the claim language.

Accordingly, the examiner properly made the December 13, 2005 Office Action Final. The Petition is **DENIED**.

Jacqueline M. Stone

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

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TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Hiroyuki Azuma	: DECISION ON REQUEST FOR
Patent Number	: 7623856	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/632,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **534** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
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AUG 2 7 2005

In re Application of:
YUTAKA TAKATA ET AL.
Serial No.: 10/632,750
Filed: 01 August 2003
Docket: 16869K-086100US
Title: DISK CONTROLLER AND CONTROLLING METHOD OF SAME

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on August 30, 2004, resubmitted on February 03, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and that any election later required will be made without traverse; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a discussion of the teaching of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a summary of the limitations of independent claims 1 and 13, a statement that none of the references disclose the disc controller coupled to a network controlling unit through an internal bus, wherein each of the components are located on the same circuit board, found in the independent claims 1 and 13, and a list of each of the cited references along with a short summary of the teachings of each reference.

Petitioner fails to distinguish each independent claim from each reference in a manner satisfying 37 CFR § 1.111 (b) and (c). For instance, with respect to submitted reference to US 2003/0105767 A1, petitioner does not specifically state the particular way in which each of the references differs from the claimed invention. For instance, petitioner does not state whether a particular reference lacks a bus, or lacks each component being on the same circuit board, or lack some other specific combination of the claimed invention. A general statement that the claimed invention is not taught is not sufficient. The same defect is found for all of the submitted references. Such a statement is required under 37 CFR § 1.111 (b) and (c). A mere summary of the claims and the references, with no comparison and distinguishment between the two, is insufficient to satisfy the requirements of MPEP § 708.02(VIII)(e). A general statement that the claimed invention is not taught is not sufficient.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any grantable petition will require the claims to be directed towards a single invention only.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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April 2006

TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO, CA 94111-3834

In re Application of: YUTAKA TAKATA ET AL. Serial No.: 10/632,750 Filed: 01 AUGUST 2003 Docket: 16869K-086100US Title: DISK CONTROLLER AND CONTROLLING METHOD OFSAME	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the renewed petition filed on 28 September 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

The decision of September 1st, 2005 dismissed the petition for failing to meet the requirements of MPEP § 708.02(VIII)(e) that a detailed discussion of each of the cited references be provided.

In requesting reconsideration, petitioner provides a detailed discussion of some of the references cited on the information disclosure statements filed 01 August 2003 and 15 October 2004.

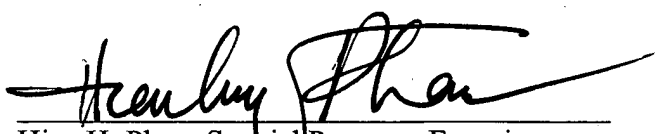
MPEP 708.02(VIII) (Eighth Edition, Oct.2005 Revision) includes the following requirements for accelerated examination: (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The request for reconsideration further does not provide a detailed discussion of *each* of the cited references and therefore does not meet the requirements of MPEP § 708.02(VIII)(e). In the IDS filed 15 October 2004, petitioner submitted copies of nineteen (19) references deemed most closely related to the subject matter encompassed by the claims. However, several of these references—e.g., US Patent 6,760,787 to Forin and US Patent Application Publication 2004/0128456 to Kobayashi et al.--were neither mentioned nor discussed in the petition. Therefore, the petition fails to meet the requirements of MPEP § 708.02(VIII) (e) that each cited reference be discussed with the particularity required by 37 CFR 1.111 (b) and (c).

For the above-mentioned reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Applicant has been given one opportunity to perfect the petition to make special according to the procedure set forth in MPEP § 708.02(VIII). Any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.



Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of
Takata et al.
Application No. 10/632,750
Deposited: August 1, 2003
Attorney Docket No. 16869K-086100US

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 12, 2004.

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on October 13, 2003. The Notice to Missing Parts set an extendable two (2) 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 became abandoned on January 1, 2006. This decision precedes the mailing of a Notice of Abandonment.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to File Missing Parts was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Notice to File Missing Parts was not received and attesting to the fact that a review of docket records indicates the Notice to File Missing Parts was not received. In addition a copy of docket records has been provided. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the Notice.

In view of the evidence presented, the holding of abandonment is vacated.

It is noted although an application data sheet, the record does not contain a declaration for a utility application using an application data sheet.

This application is being forwarded to the Office of Initial Patent Examination for re-mailing of the Notice of Missing Parts of Nonprovisional Application. The two month time period for reply will be set to run from the mailing date of the new Office Communication

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Gregory L. Mayback
Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, Fl. 33022-2480

PROCESSED BY
PG PUB DIVISION

OCT 25 2004

Applicant: Frank-Michael Kamm et al.
Appl. No.: 10/632,752
Filing Date: August 1, 2003
Title: REFLECTIVE MIRROR FOR LITHOGRAPHIC EXPOSURE AND PRODUCTION METHOD
Attorney Docket No.: P2002,0645
Pub. No.: US 2004/0030814 A1
Pub. Date: February 12, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on May 12, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication includes the abstract, specification, drawings and claims of another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." The request for corrected publication received on May 12, 2004, was not timely filed under 37 CFR 1.221 (b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

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

Shelby Littman, Jr.

Mark Polutta
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

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

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of	:
Jeffrey Thramann et al	: DECISION ON PETITION
Application No. 10/632,760	: UNDER 37 CFR 1.137(b)
Filed: August 1, 2003	:
Atty Dkt No. 49272.830001.US3	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2006, 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 March 20, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed December 20, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $700 issue fee and $300 publication fee; the petition fee of $750; and an adequate statement of unintentional delay have been submitted. Accordingly, the issue and publication fees 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
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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BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

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MAR 30 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven Sholtis et al :
Application No. 10/632,769 :
Filed: July 31, 2003 :
Attorney Docket No. CA7035172003 :

This is a decision on the petition, filed March 29, 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 December 18, 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) 272-3208.

The examiner of Technology Center AU 2165 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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 26 2007

OFFICE OF PETITIONS

JOE NIEH
18760 E. AMAR ROAD #204
WALNUT, CA 91789

In re Application of :
TSAUR :
Application No.: 10/632,773 : DECISION ON PETITION
Filing Date: August 1, 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 February 26, 2007, 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 August 29, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 30, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081107

DATE : November 07, 2008

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7400861

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:

The correction in claims 1, 9, 15, 18, 21 and 25 due to grammar and vocabulary errors, the changes do not change the scope of the invention.

/Edward Urban/
Supervisory Patent Examiner, Art Unit 2618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of
John H. Wurster et al.
Application No. 10/632,803
Filed: August 4, 2003
Attorney Docket No: **01-VE22.40C1**

ON PETITION

This is a decision on the petition filed April 6, 2007 to withdraw the holding of abandonment which is being treated under 37 CFR 1.181.

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

The application was held abandoned on October 7, 2005, for failure to file a timely response to the Final Office Action mailed June 6, 2005. By way of an advisory action mailed October 26, 2005, the applicant was advised that a response filed October 6, 2005 with a one month extension of time did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed on June 12, 2006.

Petitioner asserts that a response in the form of an RCE and two month extension of time was timely filed on November 7, 2005 by facsimile transmission and submits as proof, a copy of the response with a certificate of mail pursuant to 37 CFR 1.8 dated November 7, 2005.

A review of the file reveals that the response is of record with a receipt date of November 7, 2005, however, the response was filed with an incorrect serial number.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response. The response has now been matched with the proper file. In view thereof, the response was timely filed and the Notice of Abandonment mailed June 12, 2006 is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2614 for treatment of the response filed November 7, 2005 and resubmitted on June 15, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 13 2008

OFFICE OF PETITIONS

In re Patent No. 7,258,813 :
Issued: August 21, 2007 :
Application No. 10/632,817 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 013235-016 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 2008, to revive the above-identified application. This is also a decision on the Petition for Expedited Handling, which is being treated under 37 CFR 1.182.

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

The petition to expedite under 37 CFR 1.182 is also **GRANTED**.

The instant application matured into Patent No. 7,258,813 on August 21, 2007.

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. A courtesy copy of the decision will be mailed to the address on the petition.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: BRIAN W. BROWN
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: William R. Hambrecht	: DECISION ON REQUEST FOR
Patent Number	: 7587358	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/632,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1698** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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)
6872331	2005-03-29	10632824	2003-08-04	241242USMF

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	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2009-06-08
Name	Marvin J. Spivak	Registration Number	24913

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. 6872331
Issue Date: March 29,2005
Application No. 10632824
Filed: August 4,2003
Attorney Docket No. 241242US0CONT

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

This is a decision on the electronic petition, filed June 8,2009 ,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 June 8,2009 . 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
www.uspto.gov

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

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of :
Jean-Yves Marcel Paul Bonnefoy :
Application No. 10/632,852 : DECISION ON PETITION
Filed: August 4, 2003 : TO WITHDRAW
Attorney Docket No. 1430-284 : 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 28, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because 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).

This application is being referred to Technology Center AU 1644 to await a reply to the non-final Office action mailed December 5, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090421

DATE : 04/20/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10632858 Patent No.: 7474438 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**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

David Moore SPE AU 2625

PAGE 2/2 * RCVD AT 4/24/2009 3:28:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-36

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNISYS CORPORATION
ATTN: MICHAEL B. ATLASS
UNISYS WAY, MS/E8-114
BLUE BELL, PA 19424-0001

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SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Joseph H. End :
Application No. 10/632,872 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. TN302 :

This is a decision on the papers styled, "Petition Responsive to the Notice to File Corrected Application Papers to Include Figure 17 In Patent Application," filed on August 6, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 1, 2003, including Figure 17 as described in the specification.

The application was filed on August 1, 2003. However, on June 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figure 17 as described in the specification appears to have been omitted.

In response, on August 6, 2004 the instant petition and one (1) sheet of drawings (which include Figure 17) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "21 shts. Of Formal Dwgs. (Figs. 1-17)," on August 1, 2003. A review of the application file indicates the presence of only twenty (20) sheets of drawings originally filed on August 1, 2003, with the sheet containing Figure 17 missing. It is assumed that the missing sheet of drawings containing Figure 17 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on August 6, 2004 will be refunded to deposit account no. 19-3790.

This application will be returned to OIPE for processing with a filing date of August 1, 2003, using the one (1) sheet of drawings, containing Figure 17, that was submitted with the petition on August 6, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 9/7/04

2 Serial/Patent # 10/632,872

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	IFW	8/6/04	$130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$
		7 TOTAL AMOUNT OF REFUND		$130

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 19--3790

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E-Tannous TITLE: Pat. Atty.

SIGNATURE: PHONE: 306-9200

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 9/8/04

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:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

10632872

08/06/2004 OKELLEY 00000022 10632872
01 FC:1460 130.00 CR
Adjustment Date: 08/06/2004 JADDO1

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

In re Application of
Cohava GELBER, et al
Application No. 10/632,878
Filed: August 1, 2003
Attorney Docket No. PDC 126

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 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 Patrea L. Pabst on behalf of all attorneys/agents of record who are associated with Customer No. 23579.

All attorneys/agents of record associated with Customer Number 23579 have been withdrawn.

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

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MANNKIND CORPORATION
1 CASPER STREET
DANBURY, CONNECTICUT 06810

cc: LOUIS CULLMAN, ESQ.
KL GATES
1900 MAIN STREET
SUITE 600
IRVINE, CA 92614-7319

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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
10/632,878	08/01/2003	Cohava Gelber	PDC 126

CONFIRMATION NO. 3037

POWER OF ATTORNEY NOTICE

23579
PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

OC000000027634986

Date Mailed: 01/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2007.

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

/dcgoodwyn/

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

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OFFICE OF PETITIONS

D. SCOTT SUDDERTH
WOMBLE CARLYLE SANDRIDGE & RICE
POST OFFICE BOX 7037
ATLANTA, GA 30357-0037

In re Application of
Danner, et al.
Application No. 10/632,879
Filed: August 1, 2003
Attorney Docket No. R087 1060.3

DECISION GRANTING PETITION

This is a decision on the petition filed January 5, 2004, requesting that the above-identified application retain the presently accorded filing date of August 1, 2003, with Figure 7 as described in the specification as part of the original disclosure.

On August 1, 2003, the above-identified application was filed. On November 3, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items " (the "Notice"), stating that the application had been accorded a filing date of August 1, 2003, however, Figure 7 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on January 5, 2004 (certificate of mailing dated January 2, 2004), applicant filed the present petition, a copy of Figure 7, and a copy of the Office date-stamped postcard receipt acknowledging receiving twelve sheets of drawings on August 1, 2003.

Upon review of the record, Figure 7 was not located among the original application papers. The evidence is convincing, however, that Figure 7, accompanied the original application papers. Therefore, the application, including Figure 7, was complete on filing and entitled to the presently accorded filing date of August 1, 2003.

Accordingly, the petition is granted. Deposit account 09-0528 will be refunded the petition fee of $130.00, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 1, 2003, using the 12 sheets of drawings filed August 7, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :

Chanda ZAVERI :
Application No. 10/632,886 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 8035-002-US-DIV1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Dr. Chanda Zaveri, Activor Corporation
20695 Western Avenue #128
Torrance, CA 90501

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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

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OCT 23 2006
OFFICE OF PETITIONS

In re Application of
ZAVERI
Application No. 10/632,886
Filed: July 31, 2003
Attorney Docket No. 8035-002-DIV1

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, 2006.

The request is **APPROVED**.

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

The request was signed by Michael B. Farber, Ph.D., Esq. on behalf of all attorneys of record who are associated with customer No. 32301. All attorneys/agents associated with Customer Number 32301 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 Chandra Zaveri at the address indicated below.

A Review of the file discloses that a non-final Office action was mailed on May 23, 2006, which set forth a one 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 May 23, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Chandra Zaveri
Activor Corporation
20695 Western Avenue #128
Torrance, CA 90501

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/632,886	07/31/2003	Chanda Zaveri	8035-002-DIV1

CONFIRMATION NO. 3054

32301
CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

OC000000020914541

Date Mailed: 10/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2006.

- 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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD, CT 06877-0368

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Joerg Martin BENTZIEN et al.	:	
Application No. 10/632,888	:	ON PETITION
Filed: August 1, 2003	:	
Attorney Docket No. 9/254	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained on November 15, 2005. Accordingly, by operation of law, the application became abandoned on November 17, 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, affidavit, a Request for Continued Examination (RCE) under 37 CFR 1.114, and the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the final Office action of May 16, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Charles A. Marmor, II at (571) 272-6052, or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1626 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,426,303 :
Nozu :
Issue Date: September 16, 2008: DECISION ON REQUEST FOR
Application No. 10/632,923 : RECONSIDERATION OF
Filed: August 4, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 040447-0251 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT UNDER 37 CFR 1.705", filed November 17, 2008. This petition will be treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into U.S. Patent No. 7,426,303 with a patent term adjustment of 676 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 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 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 a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 317 of the 413 days, does not overlap with the 765 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus, patentee requests 317 additional days of patent term adjustment.

The 413 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on August 4, 2003, and a request for continued examination (RCE) having being filed on

September 21, 2007. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

Accordingly, the period of adjustment under § 1.702(b) is 413 days, counting the number of days beginning on August 5, 2006 and ending on September 21, 2007.

The 765 day period is for failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final Office action was mailed on November 8, 2006, which is 14 months and 765 days after the application was filed on August 4, 2003.

Under 37 CFR § 1.703(f), patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicant failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. Patentee states the period of reduction for applicant delay is 191 days. The "attached sheet" to the petition, allegedly detailing patentee's calculations is not in the application file. The Office has calculated the period of applicant delay as 89 days. The periods of reduction include pursuant to 37 CFR 1.704(b), 27 days for response filed March 7, 2007 and 31 days for a response filed on April 4, 2008 and, pursuant to 37 CFR 1.704(c)(8), 31 days for a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, filed on September 21, 2007.

Patentee agrees that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (413 days) and the period of Examination Delay (765 days) to the extent that these periods of delay are not overlapping. Patentee contends that 96 days of the period of delay of 765 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (October 5, 2004 to November 8, 2006) overlaps with the Three Year Delay

period (August 5, 2006 to September 21, 2007). Patentee asserts that this overlapping period is the 96 days running from August 5, 2006 to November 8, 2006.

Accordingly, patentee submits that the total period of Office Delay is 1082 days, which is the sum of the period of Three Year Delay (413 days) and the period of Examination Delay (765 days), reduced by the period of overlap (96 days).

As such, patentee asserts entitlement to a patent term adjustment of 891 days (413 +765 reduced by 96 overlap -191 (per patentee's calculation) for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 765 days is correct. At issue is whether patentee should accrue 317 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 765 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 413 days overlap. 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. 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).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for

periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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 filing date overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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 from the application's filing date to the date of filing of the RCE on September 21, 2007.

765 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the 765 days of Office delay in issuing the first Office action and the 89 days of applicant delay and the permissible timeframes for taking action, as of the filing of the request for continued examination, this application was pending 3 years and 413 days. The issuance of the patent was delayed by 413 days,. not 765 + 413 days. Accordingly, the Office properly determined that the 413 days for Office delay in issuing the patent overlapped with the 765 days. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 676 days (765 - 89).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on November 17, 2008. No additional fees are required.

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 the Deputy Commissioner
for Patent Examination Policy

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

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APR 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,426,303	:	DECISION ON REQUEST
Nozu	:	FOR
Issued: September 16, 2008	:	RECONSIDERATION OF
Application No. 10/632,923	:	PATENT TERM ADJUSTMENT
Filed: August 4, 2003	:	AND
Atty Docket No. 040447-0251	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on September 4, 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 ninety-three (993) 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 nine hundred ninety-three (993) day 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 August 5, 2006 and ends on September 20, 2007, the day before the RCE was filed, and is 412 (not 413) days. *See* 35 U.S.C. 154(b)(1)(B)(i). Taking the 96 day overlap into consideration, the patent term adjustment is 992, not 993 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The $200.00 fee, submitted on November 17, 2008, is required pursuant to 37 CFR 1.18(e) and will not be refunded.

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 **nine hundred ninety-two (992)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,426,303 B2

DATED : September 16, 2008 **DRAFT**

INVENTOR(S) : Takashi Nozu

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by (676) days

Delete the phrase "by 676 days" and insert – by 992 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Hamilton
Application No. 10/632,932
Filed: November 7, 2003
Attorney Docket No. 240659US8
FOR: REMOTE DATABASE ACCESS APPARATUS, METHOD, AND COMPUTER PROGRAM PRODUCT

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "RESPONSE TO "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION," filed November 7, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed October 31, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 4, 2003. On October 31, 2003 , the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application as filed did not include drawings. In addition, the Notice stated that an abstract and a oath/declaration were omitted.

It is noted that page 13 of the specification is missing, as well. The October 31, 2003 Notice should have notified petitioner of this fact. The undersigned will view the instant petition as a constructive petition under 37 CFR 1.53(e) with respect to omitted page 13 of the specification in order to expedite processing of this application.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of August 4, 2003 on the basis that 7 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on August 4, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing August 4, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings, a 2 page declaration, and 22 pages of specification. A review of the application file reveals that only 20 pages of specification are present. The pages missing are pages 13 and 22.

The return receipt postcard constitutes *prima facie* evidence that 7 sheets of drawing figures, 22 pages of specification, including page 13 and page 22 (the abstract), and a 2 page declaration were filed on August 4, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 15-0030.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 4, 2003**, using the copy of the 7 sheets of drawings, page 13 of the

specification, page 22 (the abstract), and the 2 page declaration submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Petitioner is requested to submit another copy of the 2 page Application Data Sheet filed on August 4, 2003, as it is missing from the application file.

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 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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OFFICE OF PETITIONS

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :

Don Marlin Hamilton :
Application No. 10/632,932 : DECISION ON PETITION
Filed: August 4, 2003 : TO WITHDRAW
Attorney Docket No. 240659US8 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **APPROVED**.

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

The request was signed by C. Irvin McClelland on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 11, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Don Marlin Hamilton**
1819 Main Street
Suite 500
Sarasota, FL 34236

cc: **Retrieval Dynamics Corporation**
c/o Ms. Shari Jansen
P.O. Box 50667
Sarasota, FL 34232

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/632,932	08/04/2003	Don Marlin Hamilton	240659US8

CONFIRMATION NO. 4477

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000025789652

Date Mailed: 09/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2007.

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

J. Williams

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

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/06

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/637941 Patent No.: 6851871

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**.

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: _____

JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

_____ 2851

SPE : **Art Unit**