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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
10/632,942	07/31/2003	2611	663	6287P008	6	52	2

CONFIRMATION NO. 4966

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

CORRECTED FILING RECEIPT

OC000000011516560

Date Mailed: 12/17/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Asaf Atzmon, Ra'anana, ISRAEL;
Yosef Zohar Ariely, Ramat Hasharon, ISRAEL;
Dror Golan, ShoHam, ISRAEL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/29/2003

Projected Publication Date: 02/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System and method for multicasting events of interest

Preliminary Class

725

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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DR. REDDY'S LABORATORIES, INC.
200 SOMERSET CORPORATE BLVD.
SEVENTH FLOOR
BRIDGEWATER, NJ 08807-2862

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Selvakumar Natesan et al :
Application No. 10/632,950 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. DRF 3.01-027 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed February 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 9, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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NOV 09 2004

OFFICE OF PETITIONS

In re Application of :
Kurt Langen :
Application No. 10/632,962 : NOTICE
Filed: August 4, 2003 :
Attorney Docket No. 4301-1016-2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8680.

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

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FROM DIRECTORS OFFICE
AUG 23 2005
TECHNOLOGY CENTER 3600

Jau-Chi Lai
P.O. Box 6-57
Junghe
Taipei, 235
TAIWAN

In re Application of	:	
Jau-Chi Lai	:	DECISION ON PETITION
Application No. 10/632,982	:	TO WITHDRAW THE
Filed: August 4, 2003	:	HOLDING OF
For: MOUSE PAD STRUCTURE	:	ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on May 6, 2005.

The petition is **DISMISSED.**

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed June 4, 2004. A Notice to that effect was mailed December 30, 2004.

Applicant states that the Office action mailed June 4, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the

communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of May 6, 2005 does not include any statement that the applicant was at the correspondence address at the time the office action would have been received. Also, no statement has been made by others (the "local agent" handling incoming mail, and anyone else at the correspondence address) that the Office Action was not received. Applicant's petition also does not include any showing of any method that serves as a reminder that a response is due.

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" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 8/16/05

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FEB 10 2006

TECHNOLOGY CENTER 3600

Jau-Chi Lai
P.O. Box 6-57
Junghe
Taipei, 235
TAIWAN

In re Application of
Jau-Chi Lai
Application No. 10/632,982
Filed: August 4, 2003
For: MOUSE PAD STRUCTURE

DECISION ON
RENEWED PETITION
TO WITHDRAW THE
HOLDING OF
ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on September 22, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed June 4, 2004. A Notice to that effect was mailed December 30, 2004.

Applicant states that the Office action mailed June 4, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the

Copied from 10632892 on 02/14/2006

communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's renewed petition of September 22, 2005 includes a statement that the applicant was at P.O. Box No. 6-57, Chung-Ho, Taipei 235, Taiwan, R.O.C. during the time period the office action was mailed. However, this address is different than the applicant's correspondence address listed in the file at the time of mailing of the office action on June 4, 2004. Applicant's petition also does not include any showing of any method that serves as a reminder that a response is due.

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" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

for

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg October 20, 2005

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JAU-CHI LAI
P.O. BOX NO. 6-57, JUNGHE
TAIPEI 235
TAIWAN

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Jau-Chi Lai	:	DECISION ON PETITION TO
Application No. 10/632,982	:	WITHDRAW HOLDING OF
Filed: 4 August, 2003	:	ABANDONMENT
For: MOUSE PAD STRUCTURE	:	

This is a decision on the twice renewed petition filed on 12 March, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 4 June, 2004, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 30 December, 2004.

Petitioner, *pro se*, asserts that the Office action mailed on 4 June, 2004, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing

outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

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

In support of the petition, the petitioner has submitted a statement by inventor Jau-Chi Lai stating that "a thorough search and investigation of the file jacket and docket records has been done indicating that the Office Action in question was not, in fact received from USPTO." A copy of petitioner's mail log book for June and July, 2004, showing where receipt of the Office action mailed on 4 June, 2004, would have been entered had the Office action in fact been received, is supplied with the petition. Petitioner has further provided a statement by his local agent stating that the Office action was not received. Lastly, petitioner has explained the change in address from "Chung-Ho" to "Junghe" by stating that they have the same translation in mandarin Chinese, and that the change occurred as a result of different spelling systems used by different local governments in Taiwan.

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

The petition is **GRANTED.**

The application file is being referred to Technology Center 3600 technical support staff for remailing of the non-final Office action mailed on 4 June, 2004. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK, CA 94026-6402

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Herbert L. Berman :
Application No. 10/632,991 : DECISION ON PETITION
Filed: August 1, 2003 : TO WITHDRAW
Attorney Docket No. MEDO-P001CONT : 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 13, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fernandez & Associates, LLP has been revoked by the assignee of the patent application on January 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/632,991	08/01/2003	Herbert L. Berman	MEDO-P001CONT

CONFIRMATION NO. 8976

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

OC000000023564065
OC000000023564065

Date Mailed: 04/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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24 FEB 2009

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

In re Application of: BERMAN ET AL.	:
	:
Application No. 10/632,991	: DECISION ON PETITION
Filed: 12 October 1999	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VVMDNZ00201	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 26 September 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

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 petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35

U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

By mail: Mail Stop PCT
Attn: Office of PCT Legal Administration
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) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Katherine Moran at (571) 272-6095.

Bryan Lin

/Katherine Moran/
PCT Special Programs, Detailee
Office of PCT Legal Administration
Telephone: 571-272-6095

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT and TRADEMARK OFFICE

22 JUN 2009

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

In re Application of	:	DECISION ON
BERMAN ET AL	:	
Application No.: 10/632,991	:	PETITION UNDER
Filing Date: 12 October 1999	:	
Attorney's Docket No.: VVMDNZ00201	:	37 CFR 1.78(a)(3)

This is in response to applicant's communication "RENEWED PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. 120" filed 05 March 2009.

BACKGROUND

In a decision from this Office on 24 February 2009, the petition under 37 CFR 1.78(a)(3) was dismissed because item (1) was not satisfied.

On 05 March 2009, petitioner filed a renewed petition under 37 CFR 1.78(3) to claim priority under 35 USC 120.

DISCUSSION

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 paragraph (a)(2) of this section 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)(2)(ii) of this section 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 has still not satisfied item (1) above.

Regarding requirement (1), a proper reference to the prior-filed applications has not been provided as required by 37 CFR 1.78(a)(2). In this instance, appropriate references have not been made in each intermediate application in the chain of prior applications. Specifically, application 09/844,687 does not properly reference prior applications 09/547,433 and PCT/US99/023823. Note MPEP 201.11 Section III (C).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the proper statement has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

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

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Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
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Bryan Lin

Bryan Lin
Legal Examiner
PCT Legal Administrative Office

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ZILKA-KOTAB, PC
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JUN 20 2008

OFFICE OF PETITIONS

In re Application of
Inderjit Singh et al.
Application No. 10/633,004
Filed: July 31, 2003
Attorney Docket No. NVIDP234/P000825

ON PETITION

This is a decision on the petition, filed May 27, 2008, 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 March 27, 2008. A Notice of Abandonment was mailed April 10, 2008 citing abandonment in view of the decision by the Board of Patent Appeals and Interference rendered on March 27, 2008 and because the period for seeking court review of the decision had expired, thus there were no allowed claims.

Petitioner argues that the period for response had not yet lapsed as the response for seeking court review is two months from the date of the decision and submits a Request for Continued Examination and an amendment as the submission under 37 CFR 1.114 as well as the fee.

Per MPEP 706.07(h), a request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on May 27, 2008 has been entered.

Accordingly, the response was timely and the Notice of Abandonment mailed April 10, 2008 was mailed prematurely in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2811 for processing the RCE filed May 27, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GINGER R. DREGER, ESQ.
HELLER EHRMAN WHITE & MCAULIFFE, LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Ashkenazi, Fong, Goodard, Gurney,	:	DECISION REFUSING STATUS
Napler, Tumas, Van Lookeren, and	:	UNDER 37 CFR 1.47(a)
Wood	:	
Application No. 10/633,008	:	
Filed: 31 July, 2003	:	
Atty Docket No. 39766-0100P1	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 31 July, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 31 July, 2003, with a petition under 37 CFR 1.47(a) identifying Application No. 10/265,542 (of which the present application is a continuation-in-part (CIP)), and a copy of the decision granting that petition.

Accordingly, on 21 October, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed declaration and a surcharge for its late filing. In response, on 20 February, 2004, petitioners filed a two (2) month extension of time, the late-filing surcharge, and a declaration naming Avi Ashkenazi, Sherman Fong, Audrey Goodard, Austin L. Gurney, Mary A. Napler, Daniel Tumas, Menno Van Lookeren, and William I. Wood as joint inventors, signed by all joint inventors except Tumas on behalf of themselves and joint inventor Tumas.

Petitioners state that joint inventor Tumas was sent a copy of the application identified in the petition, but has not returned an executed 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).

In regards to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or given a copy of *this* application as filed (specification, including claims, drawings, if any, and the declaration).[1] While the petition contains a declaration by Teri Lee that the application papers for Application No. 10/265,542 were sent to non-signing joint inventor Tumas, the present application is a CIP of the prior application, and requires a new oath or declaration. Additionally, as this application is a CIP the grant of a Rule 47 petition in the prior application has no bearing on this application. Petitioners must therefore provide evidence that the present application, No. 10/633,008 was sent or given to Tumas.

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

---

[1] MPEP 409.03(d).

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.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 08-1641, as authorized on the fee transmittal accompanying the original application papers.

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

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
DIW 06-04

Daniel Tumas
3 Rae Avenue
Orinda CA 94563

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JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Ashkenazi et al.
Application No. 10/633,008
Filed: 31 July, 2003
For: Use of A3 Antigens and JAM-IT

Dear Mr. Tumas:

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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GINGER R. DREGER
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 06-04

GINGER R. DREGER, ESQ.
HELLER EHRMAN WHITE & MCAULIFFE, LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of	:
Ashkenazi, Fong, Goodard, Gurney,	: DECISION ACCORDING STATUS
Napler, Tumas, Van Lookeren, and	: UNDER 37 CFR 1.47(a)
Wood	:
Application No. 10/633,008	:
Filed: 31 July, 2003	:
Atty Docket No. 39766-0100P1	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 28 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Daniel Tumas cannot be found. Specifically, petitioners have shown that a letter sent via Federal Express to the last known addresses of the non-signing joint inventor was returned as undeliverable. Furthermore, despite diligent efforts on the part of petitioners, the inventor could not be located.

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 forwarded to Technology Center 1600 for examination in due course.

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

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

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 07/29/2010

Applicant	: Hong Wang	: DECISION ON REQUEST FOR
Patent Number	: 7657880	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/633,012	: 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 **1673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, VA 22313-1450
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THOMAS B. HAVERSTOCK
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYCALE, CA 94086

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of :
Kevin **MCPARTLAN**, et al. :
Application No. 10/633,018 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. NUASI-00106 : 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: **FULBRIGHT AND JAWORSKI LLP**
2200 ROSS AVENUE, SUITE 2800
DALLAS, TX 75201-2784

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United States Patent and Trademark Office
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Paper No. 021005

TOWNSEND AND TOWSEND AND CREW LLP
TWO EMBARCADRO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

MAR 2 5 2005

In re Application of	:	
TAKAHIKO TAKEDA et al.	:	DECISION ON PETITION
Application No. 10/633,019	:	
Filed: July 31, 2003	:	
Attorney Docket No. 16869P-085400US	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 21, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

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

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

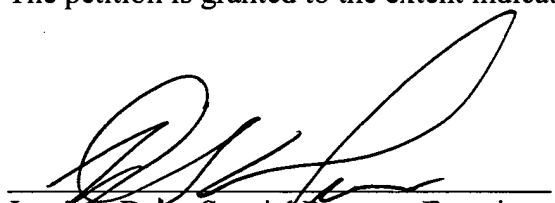
application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



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

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United States Patent and Trademark Office
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DEC 22 2004

Paper No. 122004

MICHAEL G. FLETCHER
FLETCHER YODER
P.O. BOX 692289
HOUSTON TX 77269-2289

In re Application of:	:	
DAVID SIVERLING et al.	:	
Serial No.: 10/633,024	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 01, 2003	:	FROM RECORD
Attorney Docket No.: **TUUL:0003 FLE/SWA**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 08, 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 Tait R. Swanson, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the inventor, David Siverling, at the below address, until otherwise notified by applicant.

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

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

cc: DAVID E. SIVERLING
ENERGY TUBULAR
9200 SHELDON ROAD
HOUSTON TX 77049

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Paper No. None

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Robert Meurer :
Application No. 10/633,032 : DECISION GRANTING PETITION
Filed: August 4, 2003 :
Attorney Docket No. 62-308-mow :
Title: MOWER ACCESSORY FOR :
ATTACHMENT TO A FRONT END OF A :
SKID-STEER LOADER :

This is a decision on the petition filed November 5, 2003 requesting that pages three and four (3 and 4) of the specification be accorded a filing date of August 4, 2003 as part of the original disclosure.

The application was deposited on August 4, 2003. However, on November 3, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application- Filing Date Granted" (notice), stating that the application had been accorded a filing date of August 4, 2003 and that the application appeared to have been deposited without pages three and four (3 and 4) of the specification.

In response, on November 5, 2003, Petitioner filed the present petition. The petition is further accompanied by the petition fee, pages three and four (3 and 4) of the specification, and a copy of applicants' postcard receipt acknowledging receipt of "Specification [12] pages" in the United States Patent and Trademark Office (Office) on August 4, 2003. Petitioner requests that the application, including pages three and four (3 and 4) of the specification be accorded a filing date August 4, 2003.

Upon review of the record, the above-mentioned pages have not been located in the electronic file. However, the evidence is convincing that the application papers deposited on August 4, 2003 included pages three and four (3 and 4) of the specification, and these pages were subsequently misplaced in the Office.

Therefore, the application, including pages three and four (3 and 4) of the specification, was complete on filing and entitled to a filing date of August 4, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed November 3, 2003 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to Petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 4, 2003, using the papers submitted on that date as well as pages three and four (3 and 4) of the specification submitted with the instant petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

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TRASKBRITT
P. O. Box 2550
Salt Lake City, UT 84110

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Donald L. Yates :
Application No. 10/633,069 : DECISION GRANTING PETITION
Filed: August 1, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3375.9US (95-0999.08/US) :

This is a decision on the petition, filed November 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of Request for Continued Examination (RCE) and submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 7, 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) 272-3223.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 1746 for processing of the RCE under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Marianne E. Jenkins
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 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : December 5, 2005

To : Director, Office of Patent Publication

From : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue

Applicant(s) : Donald L. Yates
Application No. : 10/633,069
Filed : August 1, 2003

The above-identified application has been assigned Patent No. 6,973,935 and an issue date of December 13, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the application is published in the OG of December 13, 2005:

> "All reference to Patent No. 6,973,935 to Donald Yates of Boise, Idaho for METHOD OF REDUCING WATER SPOTTING AND OXIDE GROWTH ON A SEMICONDUCTOR STRUCTURE appearing in the Official Gazette of December 5, 2005 should be deleted since no patent was granted."

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Janet Higgins, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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SALT LAKE CITY, UT 84110

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Donald L. Yates :
Application No. 10/633,069 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No.: 3375.9US (95-0999.08/US) :

This is a decision on the petition, filed August 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 April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1746 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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SEP 02 2008

Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden UT 84403

In re Application of	:	
Ken Gardner	:	
Application No. 10/633,075	:	DECISION ON PETITION
Filed: August 1, 2003	:	PURSUANT TO
Attorney Docket No. PGARDK-S	:	37 C.F.R. § 1.181(A)
Title: SUPPORT FOR SURVEY ROD	:	
	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on May 23, 2008.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 14, 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 June 15, 2007. A notice of abandonment was mailed on September 25, 2007.

With this petition, Petitioner has asserted that a response to the non-final Office action was submitted to the Office on September 14, 2007, along with a three-month extension of time. Petitioner has submitted both a copy of this response and a postcard receipt that establishes that both "check no. 2192, dated 09/14/2007, in the amount of $510.00 to pay for a 3-month extension of time" and an "[a]medment, dated 09/14/2007 (18 pages)" were received in the Office on September 14, 2007.

Moreover, the Office's records show that $510, the fee that is associated with the filing of a petition for a three-month extension of time, was received in the Office on September 14, 2007.

Furthermore, an 18-page amendment and a petition for an extension of time have been located in the electronic file, dated September 14, 2007; therefore, it is clear that this response to the non-final Office action was timely received on September 14, 2007.

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

It is noted in passing that Petitioner has filed arguments pertaining to the timeliness of this petition. Section 711.03(c)(I)(C)(3) of the MPEP sets forth, *in pertinent part*:

> In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should not be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 CFR 1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

This matter is not presently ripe for review, and as such, **the arguments contained in this petition pertaining to the alleged non-receipt of the notice of abandonment have not been considered by the undersigned.** Should Petitioner receive a "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" concurrently with any Notice of Allowance and Issue Fee Due, a petition pursuant to 37 C.F.R. 1.705(b) should be filed before the issue fee is paid.

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 that was received on September 14, 2007 can be processed.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] 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

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).

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

Ray K. Shahani, Esq.
ATTORNEY AT LAW
Twin Oaks Office Plaza
477 Ninth Avenue, Suite 112
San Mateo CA 94402-1854

COPY MAILED

FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Madanat & Girardet :
Application No. 10/633,092 : DECISION REFUSIING STATUS
Filed: July 31, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. NM-205 :
For: TRAFFIC SIGNAL ELECTRIC LAMP ASSEMBLY :

This is in response to the petition under 37 CFR 1.47(a), filed February 2, 2004 (certificate of mailing date January 29, 2004) and supplemented on August 2, 2004 (certificate of mailing date July 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. 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 31, 2003 with a partially executed oath or declaration. On October 29, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file a completely executed declaration, filing fees, a surcharge for their late filing, and omitted Figure 4C within two months of the mail date of the Notice. Extensions of time under 37 CFR 1.136(a) were available.

In response, on February 2, 2004 (certificate of mailing date January 29, 2004), a petition for a one month extension of time and required fee, the surcharge, and the instant petition were filed.

A statement of facts of Attorney Ray K. Shahani was part of the petition. Attorney Shahani establishes that the non-signing inventor, Brian R. Girardet, was mailed the application papers,

including the specification, claims and drawings; however, Mr. Girardet's attorney informed Attorney Shahani that Mr. Girardet would not sign the declaration and other documents during an August 18, 2003 conversation.

The October 29, 2003 Notice was later withdrawn and replaced by the April 21, 2004 Notice. The requirement for a completely exectued declaration was reiterated in the April 21, 2004 Notice.[1] Petitioner timely resubmitted the instant petition on August 2, 2004 (certificate of mailing date July 28, 2004). The February 2, 2004 (certificate of mailing date January 29, 2004) Rule 47 petition was **not** accompanied by the required petition fee. A petition is not properly filed until a petition fee is received. Since the August 2, 2004 (certificate of mailing date July 28, 2004) petition contained an authorization to charge any additional fees due to petitioner's deposit account, the petition fee was authorized at that time. Deposit account no. 50-3056 will be charged the $130.00 Rule 47 petition fee.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented on July 31, 2003 lists each inventor's name, address, and citizenship. A declaration must contain each applicant's place of residence, as well. MPEP 605.01 In addition, the Office would like petitioner to refrain from using the term "ADDRESS" in the declaration and instead term it "MAILING ADDRESS." Effective November 7, 2000, 37 CFR 1.63 was amended to use the term "mailing address" rather than "post office address." Since petitioner knows the application's serial number and filing date, that information should be included on the new declaration, also.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Girardet is REQUIRED. See MPEP 409.03(a).

---

[1] While it is not the undersigned's task to review Notices for accuracy, the undersigned has noted that the later Notice does not address omitted Figure 4C. Figure 4C is cited in the specification, but it appears that Figure 4C is **not** present among the drawing figures. Petitioner may wish to clarify this issue prior to first action on the merits.

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

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

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

Ray K. Shahani, Esq.
ATTORNEY AT LAW
Twin Oaks Office Plaza
477 Ninth Avenue, Suite 112
San Mateo CA 94402-1854

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Madanat & Girardet :
Application No. 10/633,092 : DECISION ACCORDING STATUS
Filed: July 31, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. NM-205 :
For: TRAFFIC SIGNAL ELECTRIC LAMP :
ASSEMBLY

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed February 28, 2005 (certificate of mailing date February 23, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventor, Brian R. Girardet, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Ray K. Shahani filed with the first petition establishes that the inventor was mailed the application papers, including the specification, claims and drawings; however, Mr. Girardet's attorney, Lawrence L. Severson, informed Attorney Shahani that Mr. Girardet would not sign the declaration and other documents during an August 18, 2003 conversation. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 2632 for examination in due course.

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

E. Shirene Willis

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

BRIAN R. GIRARDET
1199 NORTH 5TH STREET
SAN JOSE, CA 95112

COPY MAILED

MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Madanat & Girardet :
Application No. 10/633,092 : LETTER
Filed: July 31, 2003 :
Attorney Docket No. NM-205 :
For: TRAFFIC SIGNAL ELECTRIC LAMP ASSEMBLY :

Dear Mr. Girardet:

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

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

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Ray K. Shahani, Esq.
ATTORNEY AT LAW
Twin Oaks Office Plaza
477 Ninth Avenue, Suite 112
San Mateo CA 94402-1854

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,101	07/31/2003	Xiaochuen Chen	200205310-1	3185

7590 04/14/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
CUFF, MICHAEL A	

ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2008 DTERRY
08/06/2003 MBERHE 00000036 10633101
02 FC:1202 180.00 CR 082025
03 FC:1201 336.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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July 05, 2006

Billy J. Knowles
72 Hurley Ave.
Kingston NY 12401

Patent No.: 7052422 B2
Application No.: 10/633,106
Inventor(s): SKIDMORE, JAY F.
Issued: May 30, 2006
Title: **MOTORCYCLE CHAIN TENSION ADJUSTER**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

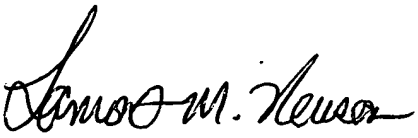
A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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



Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 112**

lmn

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MAR 12 2008

OFFICE OF PETITIONS

BILLY J. KNOWLES
72 HURLEY AVE.
KINGSTON NY 12401

In re Application of	:	
Skidmore, et al.	:	
Patent No. 7,052,422	:	DECISION
Issue Date: 30 May, 2006	:	
Application No. 10/633,106	:	
Filed: 1 August, 2003	:	
Attorney Docket No. JS03-001	:	

This is a decision on the petition filed on 18 July, 2006, which is being treated as a request under 37 C.F.R. §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 Office regrets the delay in addressing this matter, however, the instant petition was provided to the attorneys in the Office of Petitions only on this writing.

The request is **GRANTED** (upon the instant showing of the recordation of the assignments on 1 August, 2003, at Reel/Frame 014361/0229).

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner=s action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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APR 14 2006

OFFICE OF PETITIONS

In re Application of
Lau et al.
Application No. 10/633,107
Filed: August 1, 2003
Attorney Docket Number: P-5315C1
Title of Invention: Single Use Syringe and Plunger Rod Locking Device Therefor

ON PETITION

This is a decision on the petition filed March 13, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 30, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 1, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

Telephone inquiries 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
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JUL 12 2006

OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS, LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

In re Application of :
Kask, et. al. :
Application No. 10/633,109 :
Filed: August 1, 2003 :
Attorney Docket No. AGYT-017CIP2 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on April 3, 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 CFR § 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, ownership assigned to a different entity and new assignee[1] requested transfer, 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 inquires concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Pfizer, Inc.
2800 Plymouth Road
Bldg. 16, Rm. 410E
Ann Arbor, MI 48105

[1] In order for the new assignee to intervene in the above-identified application, compliance with 37 CFR 3.73(b) must be satisfied, in that, the chain of title from the original owners to the current assignee must be submitted. The form for complying with 37 CFR 3.73(b) is found on the USPTO.gov website (Form No. PTO/SB/96).

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

Ansel M. Schwartz
Attorney at Law
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

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JUL 05 2006
OFFICE OF PETITIONS

In re Application of :
Paolo M. B. Tiramani :
Application No. 10/633,118 : DECISION GRANTING
Filed: August 1, 2003 : PETITION UNDER 37 C.F.R.
Attorney Docket No. AW-2 : §1.137(b)
Title: BAG AND METHOD OF MOVING :

This is a decision on the petition filed February 24, 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 non-final Office action, mailed August 9, 2005, which set a shortened statutory period for reply of three (3) 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 November 10, 2005.

---

1 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 § 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.

The present petition was received on February 17, 2006, along with the petition fee and a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required. Petitioner has further submitted an amendment.

Petitioner appears to be under the mistaken impression that the Office action of August 9, 2005 constituted a final action. Petitioner has entitled his petition "Petition to Revive Application Abandoned Unintentionally for Failure to Reply to a Final Rejection." It is noted in passing that no final rejection has been issued in this case.

The RCE will not be entered, for prosecution in the present application is not closed. See 37 C.F.R. §§1.114(a) and (b). The associated fee will be refunded to his Deposit Account, as authorized in the petition.

The concurrently submitted amendment has been accepted as the required reply. As such, the petition is **GRANTED**.

The Technology Center will be made aware of this decision so that the concurrently presented amendment can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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APR 20 2005

OFFICE OF PETITIONS

Applicant: Belzidsky
Appl. No.: 10/633,164
Filing Date: August 1, 2003
Title: METHOD OF TREATING DEEP VEIN THROMBOSIS
Pub. No.: US 2005/0033392 A1
Pub. Date: February 10, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on February 28, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Gordon :
Application No. 10/633,177 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. STE-023.01 (18903-2301) :
For: SYSTEMS AND METHODS FOR WELDING OF PARTS :

This is a decision on the petition filed November 13, 2003 requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed October 30, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) 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 application was filed on August 1, 2003. On October 30, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that an executed declaration and figures 5 and 6 as described in the specification appeared to have been omitted.

In response to the Notice, petitioner filed the present petition. Petitioner desires figures 5 and 6 to be accorded a filing date of August 1, 2003 on the basis that 4 pages of informal drawings were received in the Patent and Trademark Office (PTO) on August 1, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 1, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 pages of informal drawings and an executed declaration. A review of the application file reveals that there is no declaration present and there are only 2 sheets of drawing figures present, depicting figures 1, 2, 3, and 4.

The return postcard constitutes *prima facie* evidence that an executed declaration and 4 sheets of drawing figures were filed on August 1, 2003. MPEP 503.

Unfortunately, the instant petition is incomplete. Petitioner has not provided a copy of the executed declaration. Petitioner has not provided a copy of drawing sheets 3 and 4. The application cannot undergo further processing without a copy of the executed declaration and drawing sheets 3 and 4.

The application file will be retained in the Office of Petitions until copies of the executed declaration and drawing sheets 3 and 4 are submitted. Once the omitted documents are submitted and the petition is granted, the $130.00 petition fee submitted with the instant petition will be credited to petitioner's deposit account.

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Gordon :
Application No. 10/633,177 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. STE-023.01 (18903-2301) :
For: SYSTEMS AND METHODS FOR WELDING OF PARTS :

This is a decision on the reconsideration petition filed February 25, 2004 and resubmitted on October 18, 2004, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed October 30, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on August 1, 2003. On October 30, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that an executed declaration and figures 5 and 6 as described in the specification appeared to have been omitted.

Petitioner desires that Figures 5 and 6 be accorded a filing date of August 1, 2003 on the basis that 4 pages of informal drawings were received in the Patent and Trademark Office (PTO) on August 1, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 1, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 pages of informal drawings and an executed declaration. A review of the application file reveals that there is no declaration present and there are only 2 sheets of drawing figures present, depicting figures 1, 2, 3, and 4.

The return postcard constitutes *prima facie* evidence that an executed declaration and 4 sheets of drawing figures, including Figures 5 and 6, were filed on August 1, 2003. MPEP 503. Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED.**

Pursuant to petitioner's authorization, deposit account no. 06-1448 will be credited the $130.00 petition fee submitted on November 11, 2003.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 1, 2003**, using the copy of Figures 5 and 6 supplied with the February 25, 2004 petition.

Office records will be corrected to show that 4 sheets of drawings were filed on August 1, 2003. OIPE will mail a corrected filing receipt in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

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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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
Leventhal et al.	:	DECISION ON PETITION TO
Application No. 10/633,179	:	WITHDRAW HOLDING OF
Filed: 1 August, 2003	:	ABANDONMENT
Atty Docket No. 25739-024	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed on 6 September, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 22 August, 2006, stating that the application was abandoned for failure to timely file a proper reply to the non-final Office action mailed on 11 January, 2006.

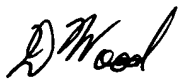
Petitioners assert that a timely reply to the non-final Office action, consisting of an amendment and a three (3) month extension of time, was filed on 11 July, 2006, and that the holding of abandonment should be withdrawn.

Upon review, it is noted that the reply filed on 11 July, 2006, has been located and associated with the above-identified file. As such, it is obvious that a response was timely filed, but was not associated with the correct application due to Office error. As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 3724 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

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BOSTON, MA 02111

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OCT 01 2009

OFFICE OF PETITIONS

In re Application of :
Leventhal et al. :
Application No. 10/633,179 : DECISION ON APPLICATION
Filed: August 1, 2003 : FOR
Atty Docket No.25739-024 : PATENT TERM ADJUSTMENT
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed March 18, 2009, which is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from three hundred twenty three (323) days on the basis, in part, that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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].

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **granted to the extent indicated herein**.

However, the determination of patent term adjustment at the time of mailing of the Notice of Allowance remains THREE HUNDRED TWENTY-THREE (323) days.

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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.

On December 18, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 323 days. Applicants timely filed the instant application for patent term adjustment[2].

Applicants dispute the reduction of 192 days for their response filed October 20, 2006. Applicants assert they should have been assessed a period of reduction of 91 days for applicant delay in responding to the non-final Office action of January 11, 2006. Applicants assert that they filed a response to the non-final Office action, accompanied by a request for an extension of time with the third month (and fee) on July 11, 2006. Thus, the date of July 11, 2006, should have been used for their date of response and a period of reduction of 91 days should have been entered.

Applicants are correct. A review of the application history reveals that no response to the non-final Office action of January 11, 2006, was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed August 22, 2006. The record establishes that, in response, on September 6, 2006, applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed November 14, 2006, the petition was granted on the basis that applicants had shown that a response was filed on July 11, 2006.

Applicants did fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action within the meaning of § 1.704(b), but not by 192 days. The date of receipt of the response to the non-final Office action was July 11, 2006, which was three months and 91 days after the non-final Office action was mailed. See 37 CFR 1.704(b). It is, therefore, appropriate to enter a reduction of the patent term adjustment of 91 days.

---

[2] The issue fee was paid on March 18, 2009. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) with the payment of the fee set forth in 37 CFR 1.18(e).

Accordingly, the period of reduction of 192 days is being removed and a period of reduction of 91 days is being entered.

However, the response filed July 11, 2006 contained an omission. This omission was corrected by way of the filing of the compliant amendment on October 20, 2006. Accordingly, pursuant to 37 CFR 1.704(c)(7), a period of reduction of 101 days is being entered for the period beginning on the day after the date a reply containing an omission was filed, July 12, 2006, and ending on October 20, 2006, the date of filing of the response correcting the omission.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 323 days (606 days of Office delay - 283 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 is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to the patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM screen

Day : Wednesday

PALM INTRANET

Date: 9/30/2009
Time: 18:46:06

PTA Calculations for Application: 10/633179			
Application Filing Date:	08/01/2003	PTO Delay (PTO):	606
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	283
Post-Issue Petitions:	0	Total PTA (days):	323
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
99	09/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		101	
98	09/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
97	09/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	192		
90	12/18/2008	MAIL NOTICE OF ALLOWANCE			
89	12/17/2008	ISSUE REVISION COMPLETED			
88	12/17/2008	DOCUMENT VERIFICATION			
87	12/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	12/16/2008	NOTICE OF ALLOWABILITY			
81	11/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	11/18/2008	REFERENCE CAPTURE ON IDS			
79	11/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	12/11/2008	DATE FORWARDED TO EXAMINER			
77	11/18/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
76	12/11/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
73	11/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	11/18/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
71	09/16/2008	FINISHED INITIAL DATA CAPTURE			
70	08/26/2008	EXPORT TO INITIAL DATA CAPTURE			
69	08/22/2008	MAIL NOTICE OF ALLOWANCE			
68	08/22/2008	ISSUE REVISION COMPLETED			
67	08/22/2008	DOCUMENT VERIFICATION			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

66	08/22/2008	COMPLETED			
65	08/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
64	08/18/2008	NOTICE OF ALLOWABILITY			
60	07/07/2008	NEW OR ADDITIONAL DRAWING FILED			
59	07/17/2008	DATE FORWARDED TO EXAMINER			
58	07/07/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	07/17/2008	DATE FORWARDED TO EXAMINER			
56	07/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	52
55	07/17/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	07/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	07/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	01/07/2008	MAIL FINAL REJECTION (PTOL - 326)	321		46
51	01/03/2008	FINAL REJECTION			
48	12/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
47	10/20/2007	DATE FORWARDED TO EXAMINER			
46	10/20/2006	RESPONSE AFTER NON-FINAL ACTION		192	30
45	09/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	12/11/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
42	12/10/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
41	12/04/2006	DATE FORWARDED TO EXAMINER			
40	09/06/2006	SUPPLEMENTAL RESPONSE			
39	07/11/2006	NEW OR ADDITIONAL DRAWING FILED			
38	07/11/2006	AMENDMENT CROSSED IN MAIL			
34	11/14/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
33	09/06/2006	PETITION ENTERED			
32	08/22/2006	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
31	08/21/2006	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
30	01/11/2006	MAIL NON-FINAL REJECTION			
29	01/06/2006	NON-FINAL REJECTION			
28	01/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

27	12/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
26	10/27/2005	DATE FORWARDED TO EXAMINER			
25	10/13/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
24	10/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	07/13/2005	MAIL RESTRICTION REQUIREMENT	285		-1
22	07/11/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
21	06/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	06/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	01/12/2004	REFERENCE CAPTURE ON IDS			
18.7	01/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/30/2003	NEW OR ADDITIONAL DRAWING FILED			
16	08/01/2003	NEW OR ADDITIONAL DRAWING FILED			
15	08/01/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
14	03/31/2004	TRANSFER INQUIRY TO GAU			
13	02/23/2004	APPLICATION RETURN FROM OIPE			
12	02/12/2004	APPLICATION RETURN TO OIPE			
11	02/12/2004	APPLICATION IS NOW COMPLETE			
10	02/12/2004	APPLICATION DISPATCHED FROM OIPE			
9	02/12/2004	APPLICATION IS NOW COMPLETE			
8	12/30/2003	ADDITIONAL APPLICATION FILING FEES			
7	12/30/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	10/30/2003	CORRECTED PAPER			
4	10/20/2003	CASE CLASSIFIED BY OIPE			
3	10/20/2003	CLEARED BY OIPE CSR			
2	09/18/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 05/05/2010

Applicant	: James M. Leventhal	: DECISION ON REQUEST FOR
Patent Number	: 7611013	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/633,179	: 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 **887** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 10112

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Modak, et al. :
Application No. 10/633,204 : DECISION ON PETITION
Filed: July 30, 2003 :
Attorney Docket No. A33459-PCT-USA-A :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to nonprovisional application 09/775,775.

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 above-noted, nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

On March 22, 2006, Applicants filed an amendment in which they added a claim for priority to application 09/775,775. However, in an Office action mailed June 7, 2006, the Examiner indicated that the priority claim would not be entered because it was not timely filed, and notified Applicants that if they wished to submit a late claim for priority, they could do so by filing a petition pursuant to 37 CFR 1.78.

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 application included in an amendment to the first sentence of the specification following the title was previously submitted, 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 and 365(c) to the above-noted, prior-filed 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 that 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

As the $1,370 petition fee was submitted twice (first on March 22, 2006, and then again with the instant petition), $1370 has been refunded to Deposit Account No. 02-4377.

This application is being forwarded to Group Art Unit 1616 for examination.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: Draft Corrected Filing Receipt (1 page)

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/633,204	07/30/2003	1616	1366	A33459-PCT-USA-A (070050.	33	6

CONFIRMATION NO. 3145

21003
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

CORRECTED FILING RECEIPT

OC000000028798984

OC000000028798984

Applicant(s)

Shanta M. Modak, River Edge, NJ;
Suhas Tambe, Mumbai, INDIA;
Lester A. Sampath, Nyack, NY;

Power of Attorney:

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Robert Neuner--24316
Richard Berkley--25465
James Maune--26946
Bradley Geist--27551
Henry Tang--29705
Robert Scheinfeld--31300
Rochelle Seide--32300
Gary Butter--33841
Lisa Kole--35225

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/03087 01/31/2002 which is a CIP of 09/775,775 02/02/2001 PAT 6,582,719

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 US10/633,204

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Combinations of antiseptic and antibiotic agents containing medical devices

Preliminary Class

424

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OFFICE OF PETITIONS

In re Application of :
Tadashi Miwa :
Application No. 10/633,230 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 241174US2S :

This is a decision on the petition, filed May 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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

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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3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Roy Wong	:	
Application No. 10/633,240	:	DECISION GRANTING PETITION
Filed: August 1, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 56494US010	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of January 10, 2005, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 1762.

Karen Creasy

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

cc:
ALLISON JOHNSON
3033 EXCELSIOR BLVD., SUITE 467
MINNEAPOLIS, MN 55416

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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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DEC 14 2004

OFFICE OF PETITIONS

In re Application of
Tezer Battal et al
Application No. 10/633,241
Filed: July 31, 2003
Attorney Docket No. 004.0106

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/400,586.

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. 60/400,586, which was filed on August 1, 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. 60/400,586 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 3723 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/400,586.

Karen Creasy
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

THOMAS B. HAVERSTOCK
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Charles Hymes, et al. :
Application No. 10/633,250 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. NUASI-00103 : 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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Thomas B. Haverstock of Haverstock & Owens 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 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FULBRIGHT & JAWORSKI, LLP
ATTN: R ROSS VIGUET
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
10/633,250	07/31/2003	Charles Hymes	NUASI-00103

CONFIRMATION NO. 4797

OC000000021685435

OC000000021685435

Thomas B. Haverstock
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale, CA 94086

Date Mailed: 12/20/2006

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).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

Patent
H2S001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Sterchi, et al.	**Group Art Unit:** TBA 1746
Serial No. TBA 10/633255	**Examiner:** TBA Wills, M
Filed: Herewith 8-1-03	
For: REGENERATIVE PUMP FOR HYDROGEN GAS APPLICATIONS AND METHOD OF USING THE SAME	

Mail Stop: Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL DUE TO ENVIRONMENTAL QUALITY/ENERGY CONSERVATION

Applicants of the above-referenced application, John Patrick Sterchi and Jerry Alan Piontkowski, hereby petition to make the above-identified application special because the invention materially enhances the quality of the environment and/or materially contributes to the conservation of energy resources.

The regenerative pump and method are preferably used in a Hydrogen Delivery and Recovery Sub-System (HDRS) of a hydrogen-based fuel cell system. The regenerative pump and method recirculates unused hydrogen back to the inlet of the hydrogen fuel cell stack of the system. The regenerative pump and method, among other things, reduces the load on the hydrogen fuel cell stack, inhibits anode degradation in the hydrogen fuel cell stack, improves the efficiency of the hydrogen fuel cell stack, and promotes the use of hydrogen fuel cells. An increase in hydrogen fuel cell use enhances the quality of the environment and/or materially contributes to the conservation of energy sources because hydrogen fuel cells are used to power electric motors, replacing internal combustion engines, which run on gasoline and diesel fuel. This reduces the amount of oil consumed, materially contributing to the

NOV 2 1 2005
PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

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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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
David Dice :
Application No. 10/633,258 : DECISION ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. :
SUN03-09(030125)

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2007. Accordingly, the date of abandonment of this application is November 2, 2007. A Notice of Abandonment was mailed on November 16, 2007, subsequent to the filing of the present petition to revive.

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 $1,440, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, NW
STE. 1750
ATLANTA, GA 30339-5948

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of :
James L. Gole et al :
Application No. 10/633,259 : ON PETITION
Filed: August 1, 2003 :
Attorney Docket No. 62004-1683 :

This is a decision on the petition, filed July 6, 2004, and supplemented on July 28, 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 June 7, 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 (703) 305-8859.

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114 submitted July 28, 2004.

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Beem Patent Law Firm
53 W. Jackson Blvd., Suite 1352
Chicago, IL 60604-3787

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OFFICE OF PETITIONS

In re Application of :

Thomas Glen Harmer et al. :
Application No. 10/633,262 :
Filed: July 31, 2003 :
Attorney Docket No. 0233-0001 :

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 23, 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 Roger J. French on behalf of all attorneys of record who are associated with Customer No. 33297.

All attorneys/agents associated with the Customer No. 33297 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 no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thomas G. Harmer**
16 W. 760 91st Street
Willowbrook, IL 60527-6183

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/633,262	07/31/2003	Thomas Glen Harmer	0233-0001

CONFIRMATION NO. 3387

OC000000021352241

OC000000021352241

33297
BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO, IL 60604-3787

Date Mailed: 11/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/23/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of :
VAN SLOVIS :
Application No. 10/633,272 : DECISION ON PETITION
Filed: July 31, 2003 : TO WITHDRAW
Attorney Docket No. 033905-000017(1072.P002 US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 17, 2006.

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

A review of the file record indicates that the power of attorney to Hal Bohner has been revoked by the assignee of the patent application on May 2, 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 Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **KOESTNER BERTANI LLP**
18662 MACARTHUR BLVD, SUITE 400
IRVINE CA 92612

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **10/23/08**

TO SPE OF : ART UNIT **2829 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/633,275** Patent No.: **7,355,436**

Attn: Roberto Valez

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

***ATTN: Ok to enter changes to claim 15 as requested in the COCIN?**

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: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

HA TRAN NGUYEN
SUPERVISORY PATENT EXAMINER

2829

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Mitsuhiro Uchida	:	
Application No. 10/633,280	:	ON PETITION
Filed: 4 August, 2003	:	
Attorney's Docket No. 1259-0235P	:	

This is a decision on the petition filed on 6 July, 2004, requesting that the above-identified application be accorded a filing date of 4 August, 2003, with Pages 1-4 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 4 August, 2003.

Accordingly, on 10 May, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 4 August, 2003, but that Pages 1-4 of the specification (description and claims) appeared to have been omitted.

In response, on 6 July, 2004, the present petition and a copy of Pages 1-27 of the specification were filed. Petitioner argues that Pages 1-4 of the specification were filed with the other application papers on 4 August, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 08/04/03, the above-identified application number, and identifies the application by the inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Specification consisting of 33 pages". Petitioner requests that the application, including Pages 1-4 of the specification, be accorded a filing date of 4 August, 2003.

A review of the record reveals that no Pages 1-4 of the specification have been located among the application papers received on 4 August, 2003. However, the evidence is convincing that the application papers deposited on 4 August, 2003, included Pages 1-4 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 1-4 of the specification, is entitled to a filing date of 4 August, 2003.

The "Notice" mailed on 10 May, 2004, is vacated.

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. 02-2448.

The application will be processed with the copy of Pages 1-4 supplied on 6 July, 2004, as a part of the original disclosure. The copies of the other application papers filed with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 4 August, 2003, using the application papers filed on that date, and the copy of Pages 1-4 of the specification supplied with the present petition.

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

Douglas I. Wood
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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ALEXANDRIA, VA 22313-1450
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MOTOCZYSZ
915 NE DAVIS
PORTLAND, OR 97232-2933

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Michael Czysz :
Application No. 10/633,296 :
Filed: July 31, 2003 :
Title of Invention: VEHICLE WITH :
SEPARATE GEARBOX CLUTCH AND :
BACK-TORQUE-LIMITING SLIPPER CLUTCH :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 13, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed November 15, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned February 16, 2006. A Notice of Abandonment was mailed on March 28, 2006.

With the instant petition, Applicant has submitted the corrected drawing.

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

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

Derek L. Woods
Attorney
Office of Petitions

OIPE
SEP 15 2004
PATENT & TRADEMARK OFFICE

JRW

Attorney Docket No. 1697.1002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Mark Holm et al.

Application No.: 10/633,314 Group Art Unit: 3725

Filed: August 4, 2003 Examiner:

For: METHOD AND APPARATUS FOR BROWNING AND COOKING FOOD PRODUCTS WITH STEAM

REQUEST FOR WITHDRAWAL AS ATTORNEY/AGENT

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

Sir:

1. Request for Withdrawal : Please withdraw me as attorney for the above-identified patent application, and the attorneys/agents associated with Customer Number 21171 in accordance with 37 C.F.R. §§ 1.36 (b) and 10.40.

FEB 16 2005

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

2. Address of the Client/Assignee:

Pyramid Food Processing Equipment Manufacturing, Inc.
151 Lorum Street
Tewksbury, MA 01876

Attn: Mr. Jack Bresnahan
President

This application is the subject of an assignment from the inventors to the above-noted Assignee, which assignment is recorded at Reel 015048, Frame 0444.

Once the request for our withdrawal is approved, please direct all future correspondence regarding this application to the Assignee at the above-noted address.

3. Basis for Withdrawal Request

The attorneys under this Customer Number, particularly the undersigned, have rendered substantial legal services and expended substantial out-of-pocket sums on behalf of the Assignee.

Attached is a Statement of Account showing an unpaid balance of $15,689.35 for legal services performed on behalf of the client. The earliest debit memo is from December, 2003, about nine months ago. Numerous reminders have been sent to the client in regard to the need to pay the balance. While

a payment was received recently, it related only to debit memos from August, 2003, and it is not expected that further payments will be received very soon.

We believe that our firm will be harmed if we must continue to assume responsibility in any way over this application.

4. Ample Time for Assignee to Act

The status of the application is that it is pending and no Office Action has yet issued. Accordingly, there is no response due date set in this application at this time.

5. Notification of Client

In accordance with 37 C.F.R. § 10.40, a copy of this request is being sent to the Assignee at the above-noted address.

The undersigned has not been advised by the Assignee of any replacement counsel having been chosen yet.

In conclusion, due to the absence of receiving all our fees from the Assignee, we do now want to expend any further time or expense on this application or continue to be responsible in any way therefore. For this reason, we earnestly solicit the Commissioner's prompt consideration and approval of this application to withdraw.

The undersigned, as a Partner of the firm, signs on behalf of all attorneys/agents included in Customer No. 21171 of record in the above-referenced application.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 9/15/04

By: _____
William F. Herbert
Registration No. 31,024

1201 New York Ave, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

STAAS & HALSEY LLP
1201 New York Avenue, N.W.
Suite 700
Washington, DC 20005

Mr. Jack Bresnahan
PYRAMID FOOD PROCESSING EQUIP. MFG., INC.
152 Lorum Street
Tewksbury, MA 01876

September 8, 2004
Page: 1

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Statement of Account

Date	Debit Memo Number	Amount
December 31, 2003	1697-160827	8,081.68
December 31, 2003	1697-160830	2,249.70
February 6, 2004	1697-162989	263.38
February 6, 2004	1697-162991	263.38
February 20, 2004	1697-162990	600.66
March 19, 2004	1697-164429	1,239.50
May 28, 2004	1697-167811	285.95
June 30, 2004	1697-169584	1,565.60
July 30, 2004	1697-171035	408.50
July 30, 2004	1697-171036	81.70
July 30, 2004	1697-171037	77.40
July 30, 2004	1697-171038	571.90
		$15,689.35

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

JJGJR.: 09-05

Paper No: __

FOLEY & LARDNER
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

COPY MAILED

SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Tisma, et al. :
Application No. 10/633,337 : ON PETITION
Filed: 1 August, 2003 :
Attorney Docket No. 89835-0110 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 19 March, 2004, and supplemented on 18 August, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 1 August, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 31 October and 3 November, 2003, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 31 December, 2003, and Monday, 5 January, 2004, respectively;

- on 19 March, 2004, Petitioner filed, *inter alia*, request and fee for extension of time, an

oath/declaration signed by named inventors Kokotovic and Bajic, but without the signatures of Steven Tisma and Petar Tisma, a petition under 37 C.F.R. §1.47, and narratives by Petitioner Marshall J. Brown (Reg. No. 44,566) and Mark Oldenburg, identified as the Manager of Engineering of SWF Companies/Tisma Division, and a further/supplemental statement by Petitioner Marshall J. Brown filed on 18 August, 2005, indicating, *in globo*, that copies of the instant application were transmitted/presented to the non-signing inventors Mr. Stevan Tisma and Mr. Petar Tisma, along with respective copies of the oath/declaration for signature, but as of this time the non-signing inventors Mr. Steven Tisma and Mr. Petar Tisma have not signed the oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §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 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), the 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 also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 09-05

Paper No: __

FOLEY & LARDNER
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

COPY MAILED

SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Tisma, et al. :
Application No. 10/633,337 : ON PETITION
Filed: 1 August, 2003 :
Attorney Docket No. 89835-0110 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 19 March, 2004, and supplemented on 18 August, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 1 August, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 31 October and 3 November, 2003, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 31 December, 2003, and Monday, 5 January, 2004, respectively;

- on 19 March, 2004, Petitioner filed, *inter alia*, request and fee for extension of time, an

oath/declaration signed by named inventors Kokotovic and Bajic, but without the signatures of Steven Tisma and Petar Tisma, a petition under 37 C.F.R. §1.47, and narratives by Petitioner Marshall J. Brown (Reg. No. 44,566) and Mark Oldenburg, identified as the Manager of Engineering of SWF Companies/Tisma Division, and a further/supplemental statement by Petitioner Marshall J. Brown filed on 18 August, 2005, indicating, *in globo*, that copies of the instant application were transmitted/presented to the non-signing inventors Mr. Stevan Tisma and Mr. Petar Tisma, along with respective copies of the oath/declaration for signature, but as of this time the non-signing inventors Mr. Steven Tisma and Mr. Petar Tisma have not signed the oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §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 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), the 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 also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination 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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BROWN RAYSMAN MILLSTEIN FELDER &
STEINER, LLP
1880 CENTURY PARK EAST
12TH FLOOR
LOS ANGELES CA 90067

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerry D. Lowe et al	:	
Application No. 10/633,347	:	DECISION GRANTING PETITION
Filed: August 4, 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 May 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and amendment of November 19, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 19, 2004, 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 3644.

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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STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Jerry D. LOWE, et al	:	
Application No. 10/633,347	:	DECISION ON PETITION
Filed: August 4, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Robert L. Kovelman on behalf of all attorneys of record associated with Customer No. 30076.

All attorneys of record associated with Customer No. 30076 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.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JERRY D. LOWE
P.O. BOX 978
WOODLAND PARK, CO 80866

cc: GENESIS 3 ENGINEERING, INC.
800 RESEARCH DRIVE, SUITE 160
WOODLAND PARK, CO 80863

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Perman & Green, LLP
99 Hawley Lane
Stratford CT 06614

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of :
Patrick G.l. Perdu :
Application No. 10/633351 : DECISION DISMISSING
Filing or 371(c) Date: 08/01/2003 : PETITION UNDER
OFFLINE MARKLESS POST : 37 CFR 1.47(b)
PROCESSING OF PRINTED MEDIA :

This is in response to the Petition Pursuant to 37 C.F.R. 1.47(b) Sole Inventor Cannot be Found," filed March 1, 2004, and supplemented May 12, 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 **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).

Background

The above-identified application was filed on August 1, 2008, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on October 30, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the present petition and as proof of proprietary interest in the invention by Xerox Corporation, provide a copy of a "XEROX Invention Proposal Form" executed by the inventor. Petitioner supplemented the present petition with a copy of the inventor's employment agreement with European Engineering Systems S.A. Petitioner provides that XEROX obtained the services of the inventor through European Engineering Systems S.A.

Applicable Law, Rules and MPEP

The applicable Law, 35 U.S.C. 118, Filing by other than inventor, states:

> Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and the Director may grant a patent to such inventor upon such notice to him as the Director deems sufficient, and on compliance with such regulations as he prescribes.

The applicable Rule, 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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks item (5) as set forth above.

As to item (5), Applicant failed to show or provide proof that XEROX Corporation ("XEROX"), or anyone other than the inventor, has sufficient proprietary interest in the subject matter to justify the filing of the application (*see* MPEP 409.03(f)). No assignment for the present invention has been filed. The MPEP 409.03(f), Proof of Proprietary Interest, states:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Here, Petitioner does not assert that the invention has been assigned to XEROX, or that the inventor has agreed in writing to assign the invention. Instead, Petitioner attempts to demonstrate a sufficient proprietary interest in the application to allow petitioner to make application on behalf of and as agent for the inventor. As proof of proprietary interest in the invention by Xerox Corporation, Petitioner provides a copy of a "XEROX Invention Proposal Form" executed by the inventor. However, the Invention Proposal Form is an invention proposal form, and fails to demonstrate a sufficient proprietary interest in the present application to allow petitioner to make application on behalf of and as agent for the inventor. Petitioner supplemented the present petition with a copy of the inventor's employment agreement with European Engineering Systems S.A. Petitioner provides that XEROX obtained the services of the inventor through European Engineering Systems S.A. However, the inventor's employment agreement with European Engineering Systems S.A. fails to demonstrate a sufficient proprietary interest by XEROX in the present application to allow petitioner to make application on behalf of and as agent for the inventor.

The MPEP 409.03(f) provides as follows:

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

Conclusion

Petitioner has failed to demonstrate that it has a sufficient proprietary interest in the present application to allow petitioner to make application on behalf of and as agent for the inventor. Petitioner must provide 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 47(b) applicant.

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

By mail:	Mail Stop PETITIONS Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/Derek L. Woods/

Derek L. Woods
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,362	08/04/2003	Wilco Dijkstra	550-455	5128

23117 7590 01/16/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
MOLL, JESSE R	

ART UNIT	PAPER NUMBER
2181	

MAIL DATE	DELIVERY MODE
01/16/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of: FLYNN et al.
Application No. 10/633,362
Filed: January 21, 2003
For: A DATA PROCESSING APPARATUS AND METHOD FOR SWAPPING DATA VALUES

DECISION ON PETITION

This is a decision on the petition filed on October 10, 2007, requesting withdrawal of Notice of Non-compliant appeal brief mailed September 10, 2007. This petition is being treated as petition under 37 CFR 1.181(a) to invoke Supervisory Authority with respect to the Office communication mailed on September 10, 2007, and withdraw the Notice of non-compliant Appeal Brief.

The Petition is **GRANTED.**

RECENT PROSECUTION HISTORY

September 29, 2006	Final Rejection mailed.
January 29, 2007	Applicant filed response to final rejection above.
February 20, 2007	Advisory action mailed.
February 28, 2007	Pre-Brief Conference Request filed.
April 30, 2007	Pre-Brief Conference Decision mailed.
May 30, 2007	Appeal Brief filed.
September 10, 2007	Notice of Non-compliant appeal brief mailed, requesting applicant to point out specifically and concisely where in the specification the claimed limitations are taught.

October 10, 2007 Instant petition requesting withdrawal of Notice of Non-compliant appeal brief mailed September 10, 2007.

Petitioner filed the instant petition on October 10,2007, requesting that the Notice of Non-compliant brief be withdrawn stating that in the instant application "the referenced portions of the specification extending over multiple pages are identified as necessary to understanding the claimed element and the claimed interrelationship of that element with other elements of the claim".

37 CFR § 41.37(c)(1)(v) states:

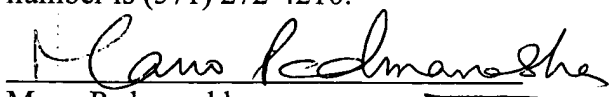
> *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

As per the above rule, applicant is required to make a "concise explanation" of the subject matter defined in each of the independent claims involved in the appeal. A review of the Appeal Brief filed on May 30, 2007 indicates that applicant has indeed cited multiple pages for many of the claim limitations, with same sections of text being cited for more than one claim limitation. However, applicant states that the nature of the application and specification in the instant application is such that the "concise explanation" will necessarily have to be referenced over a number of pages.

For the above stated reason, the petition is **GRANTED**. The Notification of Non-complaint Appeal Brief mailed September 10, 2007, is hereby vacated.

The application has been forwarded to examiner of record to consider the Appeal Brief filed on May 30, 2007, and issue an appropriate Office Action.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.



Mano Padmanabhan
WQAS, Technology Center 2100
Computer Architecture, Software, and Information Security

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAY 19 2004
OFFICE OF PETITIONS

In re Application of :
Ronald Cleveland and Steve :
Wendler : DECISION GRANTING PETITION
Application No. 10/633,365 : UNDER 37 CFR 1.47(a)
Filed: August 1, 2003 :
Title: TRAILER CARGO DETECTION
USING ULTRASONIC TRANSDUCERS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 2, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KNOBBE, MARTENS, OLSEN & BEAR, LLP
2040 MAIN STREET, FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Paul V. **GOODE JR, et al.** :
Application No. 10/633,367 : DECISION GRANTING PETITION
Filed: August 1, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **DEXCOM.016A** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3735 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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ALEXANDRIA, VA 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN TX 78701

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MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
WEBB et al :
Application No.: 10/633,371 : DECISION ON PETITION
Filing Date: August 1, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 5259-14600 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 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 June 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, by operation of law, the above-identified application became abandoned on September 5, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed June 5, 2006, is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3733 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
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 03 2004

Director's Office
Group 3700

Jeffrey Marty
801 Grand Avenue
Suite 3200
Des Moines, Iowa 50309

In re application of
Richard A. Burger

Serial Number: 10/633384
Filed: August 1, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **IMPROVED AIR CONDITIONING SYSTEM**

This is a decision on the petition filed on August 1, 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: 4/29/04

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,386	08/01/2003	Gary Benjamin	200208210-1	2825

22879 7590 06/03/2005

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
HIRSHFELD, ANDREW HOWARD	
ART UNIT	**PAPER NUMBER**
2854	

DATE MAILED: 06/03/2005

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

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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June 2, 2005

Hewlett Packard Company
P.O. Box 272400
3404 E. Harmony Road
Intellectual Property Administration
Fort Collins, CO 80527-2400

In re Application of:	Benjamin et al.	:	
Application No.	10/633,386	:	NOTICE OF WITHDRAWAL
Filed:	8/1/03	:	FROM ISSUE
Attorney Docket No.	200208210-1	:	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 April 29, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution for the application of pertinent prior art to the claimed invention. An office action will be prepared and mailed to applicant's representative.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Drew Hirshfeld at (571) 272-2168.

Howard Goldberg, Director
Technology Center 2800

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100120

DATE : January 20, 2010

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction on Patent No.: 7,179,191

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 request for replacing "the output shaft" with --only one shaft-- in claim 1, column 27, line 61, is denied because it changes the scope of the present claim 1.

/ROBERT A SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED

MAY 14 2010

OFFICE OF PETITIONS

In re Patent of Dash	:	DECISION ON REQUEST
Patent No. 7,609,278	:	FOR RECONSIDERATION OF
Issue Date: October 27, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/633,436	:	AND NOTICE OF INTENT TO
Filing Date: July 31, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 07844-0601001/P554	:	CORRECTION

This is a decision on the petition filed December 18, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand seven hundred twenty-three (1723) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand seven hundred twenty-three (1723) days is **GRANTED**.

Patentee does not dispute the Office's prior determination the period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 1,223 days.

Patentee contends the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 1,061 days. A review of the record indicates Patentee is correct and the period of B Delay is 1,061 days.

Patentee contends the number of days of overlap between A Delay and B Delay is 507 days. A review of the record indicates Patentee is correct and the period of overlap is 507 days.

As part of Patentee's duty of good faith and candor, Patentee contends the period of delay under 35 U.S.C. § 154(b)(2)(C) ("Applicant Delay") is 54 days, not 0 days. A review of the record indicates Patentee is correct and the period of Applicant Delay is 54 days.

The patent term adjustment is 1,723 days, which is the sum of 1,223 days of A Delay and 1,061 days of B Delay reduced by 507 days of overlap and 54 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand seven hundred twenty-three (1723)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,609,278 B1
ISSUE DATE	:	October 27, 2009
INVENTOR(S)	:	Dash

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1223 days.

Delete the phrase "by 1223 days" and insert - by 1723 days--

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

Mailed: JUN - 9 2004 CST

In re application of
Paul A. LaViolette
Serial No. 10/633,437
Filed: August 4, 2003
For: ADVECTIVE SOLAR COLLECTOR FOR USE IN MULTI-EFFECT FLUID DISTILLATION AND POWER CO-GENERATION

DECISION ON PETITION

This is a decision on the petition filed August 4, 2003 requesting that the above-identified application be granted Special Status under section 708.02(VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02(VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Paul A. LaViolette
6369 Beryl Road, #104
Alexandria VA 22312

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

CHARLES I. BRODSKY
2 BUCKS LANE
MARLBORO, NJ 07746

COPY MAILED

DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Jianrong Deng :
Application No. 10/633,458 : DECISION ON PETITION
Filed: August 4, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5381 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 18, 2005 and again on November 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/CN02/00114, filed February 26, 2002.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(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 petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT 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 that this instant 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date. As this application is under final rejection, the Examiner may require the filing of an RCE if it is found that the amendment does not prima facie place the application in condition for allowance.

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 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 matter is being referred to the examiner of Technology Center Art Unit 3635 for further examination and consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

C:\documents and settings\fhicks\my documents\470\633458 12-29-05

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ANDREW ALEXANDER & ASSOCIATES
3124 KIPP AVENUE
P.O. BOX 2038
LOWER BURRELL PA 15068

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JUN 17 2009

OFFICE OF PETITIONS

Patent No. 6,850,551	:	
Application No. 10/633,483	:	
Filed: August 4, 2003	:	ON PETITION
Issued: February 1, 2005	:	
Attorney Docket No. 02-67	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued February 1, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was February 1, 2009. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this 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.

Petitioner submitted both the $65.00 surcharge and the $1640.00 surcharge. Since petitioner is outside of the 6-month grace period, only the $1640.00 surcharge is required. Accordingly, the $65.00 surcharge was refunded via treasury check in April 2009.

Telephone inquiries concerning 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

MAR 23 2007

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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of	:
Rüdiger Ridder et al	:
Serial No.: 10/633,484	: PETITION DECISION
Filed: July 31, 2003	:
Attorney Docket No.: 05033.0003.00US00	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed July 31, 2003. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Howard J. Troffkin
W. R. Grace & Co.-Conn.
Patent Dept.
7500 Grace Drive
Columbia, MD 21044-4098

COPY MAILED

FEB 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Shih :
Application No. 10/633,509 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. W-9459-02 :

This is a decision in response to the papers filed on September 7, 2005, and December 28, 2005, which are being treated as a petition under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b). The papers are also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **dismissed as moot.**

The petition under 37 CFR 1.137(b) is **dismissed as moot.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 18, 2005. The application was considered to be abandoned as of February 19, 2005. A Notice of Abandonment was mailed on November 17, 2005.

Petitioner has established non-receipt of the Notice of Non-Compliant Amendment. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Although the paper filed September 7, 2005, requests the January 18, 2005 Notice be re-mailed, the papers filed December 28, 2005, include a response to the Notice. Therefore, the Office will assume no need exists for the January 18, 2005 to be re-mailed.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a), or in the alternative 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 $500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 1755 will be informed of the instant decision so that the examiner may further examine the application in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Best Available Copy

OIPE IAP68 DEC 28 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	December 27, 2005
Kneg-Yu Shih	:	Examiner: Jennine Brown
U.S. Serial No. 10/633,509	:	Art Unit: 1755
Filed: August 5, 2003	:	Docket No.W-9459-02

For: ACTIVE HETEROGENEOUS BI- or TRI-DENTATE LIGAND/TRANSITION METAL CATALYST

12/29/2005 JADD01 00000101 071770 10633509
01 FC:1452 500.00 DA

Commissioner of Patents
Mail Stop: Petitions
P.O. Box 1450
Alexandria, VA 22313

Petition to Revive Abandoned Application
Under 37 CFR 1.137 (a)

This Petition is submitted in view of the Notice of Abandonment issued by the U.S Patent Office on November 17, 2005 with respect to the above-identified application.

Attorney for Applicants petitions the Commissioner of Patents and the Director under the provisions of 37 CFR 1.137(a) to have the above-identified application revived and placed on the active docket of the U.S. Patent & Trademark Office for further prosecution of same. In the alternative, upon consideration of the present Petition by the Commissioner and the Director, if there is a decision that the present Petition is not proper under the provisions of 37 CFR 1.137(a), than Attorney for Applicant requests this Petition to be made under either 37 CFR 1.137(b) or 37 CFR 1.181

It is respectfully submitted that any delay in making a timely reply to a presumably issued Office Action dated 18 January 2005 was unavoidable on the part of Applicant in view of the fact that no such Office Action was formally or even informally received by Applicant, Attorney for Applicant, nor Legal Department of Applicant's employer prior to the expiration of the statutory reply period.

In view of the telephone conference with the Examiner and the faxed copy of the prior un-received Office Action, Attorney for Applicant submitted a Request for Re-Issuance of Un-Received Office Action. This paper was submitted in accordance with 37 CFR 1.181 and 1.134(c). The Request further included a corrected set of claims in compliance with the requirements of 37 CFR 1.121(c). Attached to and in support of said Request was Attachments A, B, C, D and E which correspond to Attachments B, C, D, E and the claims of Attachment G of the present Petition. A copy of the Request dated September 1, 2005 (without its Attachments) is submitted herewith as **Attachment F**.

Attorney for Applicant herewith submits, as **Attachment G,** a formal Letter of Reply to the presumably issued Notice of Non-Compliant Amendment. It is respectfully submitted that the claims objected to in said Notice ("Applicant has not amended the new claim [168] properly,...the text of the claim must not be underlined.") are herein submitted in accordance with 37 CFR 1.121(c).

Attorney for Applicant has awaited a reply to the submitted Request dated September 1, 2005 in order to promptly proceed forward in the most proper manner. It is presumed that the Notice of Abandonment dated November 17, 2005 is USPTO's reply to Applicant's Request.

Attorney for Applicant requests the Commissioner and the Director to invoke their supervisory authority to withdraw the holding of abandonment and to have the present application placed on the active rolls of applications subject to examination. Further, Attorney for Applicant requests the Commissioner and the Director to invoke their supervisory authority to enter the Letter of Reply submitted hereunder as Attachment G to supplement Applicant's Letter of Reply dated August 9, 2004.

The Commissioner and the Director are hereby authorized to charge Deposit Account 07-1770 the petition fee as set forth in 37 CFR 1.17(*l*). If the Commissioner and Director deem this Petition to be appropriate under another Section of CFR, they are authorized to:

[x] credit any overpayment
[x] charge any additional fee required.

A duplicate copy of this page is attached.

Respectfully submitted,

Howard Troffkin
Attorney for Applicant
Reg. Number 25,184

Telephone: 301-299-9326
Facsimile : 301-299-4575

cc: R. Woodruff (W.R. Grace)

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Ohno et al. :
Application No. 10/633,555 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 1405.1073 :

This is a decision on the petition, filed May 2, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely respond to the Office action of March 1, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before June 1, 2007. A Notice of Abandonment was mailed on September 26, 2007.

Petitioner states that a timely reply was sent via facsimile transmittal on July 2, 2007.

The submission of the petition to withdraw the holding of abandonment is untimely. 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. The Notice of Abandonment was mailed on September 26, 2007; a petition was not filed in this application until May 2, 2008. Thus, the petition is untimely.

Petitioner should consider filing a 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 $770.00 (small entity) 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 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 Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 29 2008

OFFICE OF PETITIONS

In re Application of :
Ohno et al. :
Application No. 10/633,555 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 1405.1073 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 1, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 2, 2007. A Notice of Abandonment was mailed on September 26, 2007. A petition filed under 37 CFR 1.181 was dismissed on June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $120.00 extension of time fee submitted with the petition on June 24, 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 the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2152 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 29,2007

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/633,564 Patent No.: 7272106 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: _____

_____

_____

_____

_____

2627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

Attorney Docket No. 1293.1827

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Kyung-geun LEE, et al.

Application No.: 10/633,564

Confirmation No.: 7147

Filed: August 5, 2003

U.S. Patent No.: 7,272,106

Issued: September 18, 2007

For: OPTICAL INFORMATION STORAGE MEDIUM

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee(s) respectfully request(s) that a Certificate of Correction be issued in the subject patent, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, to correct the mistake(s) shown on the attached Certificate of Correction form.

Printed claim 6 should be deleted since claim 6 corresponds to original claim 34, which was cancelled in the Amendment Under 37 C.F.R. §1.312 filed on August 1, 2007 and entered by the Examiner on August 9, 2007. Newly added claim 15 is the original claim 8 that was omitted from the patent.

Since the mistakes are Patent Office mistakes, it is believed that no fee is required.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: SEPT. 28, 2007

By: _____
James G. McEwen
Registration No. 41,983

1400 Eye St., N.W.
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510

OIPE USPTO DEC 22 2005 PATENT & TRADEMARK OFFICE

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY DOCKET NO.	APPLICATION NO.
LIST OF REFERENCES CITED BY APPLICANT	1293.1827	10/633,564
	FIRST NAMED INVENTOR: Kyung-geun LEE, et al.	
(Use several sheets if necessary)	FILING DATE: August 5, 2003	GROUP ART UNIT: 2656

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
UR	AA	5,793,741	08/1998	~~Toshiaki~~ Kashihara et al.			
	AB						
	AC						
	AD						
	AE						
	AF						

NHM 5-25-07

FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO	ABSTRACT
UR	AG	EP0740289 A1	10/1996	EPO	✓		
	AH						
	AI						
	AJ						
	AK						
	AL						

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)			TRANSLATION YES	TRANSLATION NO
UR	AM	Office Action issued in Taiwanese Patent Application no. 92124429 on October 14, 2005		

EXAMINER	DATE CONSIDERED
URP	5/4/06

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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

Mail Date: 05/20/2010

Applicant	: Hyun-Doo Shin	: DECISION ON REQUEST FOR
Patent Number	: 7656951	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/633,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,452,987 :
Klaus Giese et al. : DECISION ON APPLICATION
Issue Date: November 18, 2008 : FOR PATENT TERM ADJUSTMENT
Application No. 10/633,630 :
Filed: August 5, 2003
Atty Docket No. ST-101XT

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed December 22, 2008, pursuant to patentees' duty of candor and good faith to the Office. Patentee states that the 107 days of patent term adjustment as indicated on the above-identified Patent is incorrect.

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

On November 18, 2008, the application matured into U.S. Patent No. 7,452,987, with a revised patent term adjustment of 107 days. Patentee states that the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) of 107 days shown in the PAIR system was incorrect because a Request for Continued Examination (RCE) was filed on September 7, 2007 and thus constituted additional applicant delay.

A review of the application history reveals that the patent term adjustment of 107 days indicated on the patent is correct. The application was entitled to a patent term adjustment of 169 days for Office delay in mailing a first notification under 35 U.S.C. 132 on March 23, 2005, fourteen months and 169 days after the filing date of the application, August 5, 2003 , within the meaning of § 1.702(a)(1) and 47 days for failure to respond to a reply under 35 U.S.C. 132 on July 30, 2008, four months and 47 days after February 13, 2008, the date which applicants filed a reply, within the meaning of § 1.702(a)(2). Moreover, the Office missed the three-year provision by a period of 445 days, and the Office overall delay was 445 days as noted in the PAIR calculation.

A further review of the of the application history reveals that the patent term adjustment of 445 days of delay was reduced by two hundred ninety-four (294) days of applicant delay pursuant to 37 C.F.R. §1.704(b) and an additional forty-four (44) days for applicants' filing of the drawings after the mailing of the notice of allowance pursuant to 37 C.F.R. §1.704(c)(10).

Applicant is advised that the RCE was timely filed on September 7, 2007, within three months after the mailing of the Final Office Action on June 13, 2007 and thus no reduction was warranted. The filing of an RCE cuts-off the applicants' 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 view thereof, the patent term adjustment indicated on the patent of one hundred seven **(107)** days is maintained.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office.

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

In re Application of: Mogi, et al.
Application No. 10/633,637
Filed: August 5, 2003
For: COMPUTER SYSTEM FOR MANAGING PERFORMANCES OF STORAGE APPARATUS AND PERFORMANCE MANAGEMENT METHOD OF THE COMPUTER SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed September 16, 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.

12/3/04

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

MBS

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Paper No. 20050304

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

MAR 10 2005

In re Application of:
Seong Yun Jeong et al. (As Amended)
Serial No.: 10/633,639
Filed: August 5, 2003
Attorney Docket No.: **46500-000122/US**

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed July 7, 2004 to correct inventorship under 37 CFR 1.48 (a).

The petition is granted.

In view of the papers filed December 21, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a).

The inventorship of this application has been changed by **adding** the names:

Jin Yong KIM
Jin Hong KIM
Hun SEO
Keum Cheol KWAK

The inventorship of this application has been changed by **deleting** the names:

Jong Hwan KIM
Jun Seok LEE

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877 4/6/05

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OFFICE OF PETITIONS

In re Application of :
Soo Jin Chua et al :
Application No. 10/633,652 : NOTICE
Filed: August 5, 2003 :
Attorney Docket No. 1781-0247P

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 the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Hu et al. :
Application No. 10/633,666 :
Filing or 371(c) Date: 08/04/2003 :
Patent No.: 7053546 :
Issue Date: 05/30/2006 :
Attorney Docket No. :
250321-1010 :

This is a decision on the correspondence entitled "Request for Certificate of Correction of Patent for Applicant's Mistake (37 C.F.R. § 1.323) and Request for Issuance of Patent to Joint assignee After Payment of Issue Fee (37 C.F.R. 3.81(b))", filed September 22, 2006, requesting a change in the name of the assignee after payment of the issue fee. The correspondence is properly treated as a petition under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

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
Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091022

DATE : October 22, 2009

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 7517670

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:

This request for correction does not have a OTI 296 form that was filled out by Certificates of Correction Branch.

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

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OFFICE OF PETITIONS

In re Application of
Chang-Seog Ko
Application No. 10/633,706
Filed: August 5, 2003
Attorney Docket No: Q75837

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed September 26, 2008, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on March 13, 2008, for failure to file a timely response to the non-Final Office Action mailed December 12, 2007, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 14, 2008. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket to show that the Office Action mailed December 12, 2007 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed December 12, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2623 for a re-mailing of the Final Office Action and for a restarting of the period for response.

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

3/30/07

In re Application of:
WENG, LEE et al
Serial No. 10/633,726
Filed: Aug. 4, 2003
Docket: THERUS.007C1
Title:
CONTROLLED HIGH EFFICIENCY LESION FORMATION USING HIGH INTENSITY ULTRASOUND

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Oct. 2, 2006 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Aug. 1, 2006.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3768 for further processing. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Frederick R. Schmidt, Director
Technology Center 3700

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In re Application of
Lee Weng, et al.
Application No. 10/633,726
Filed: August 4, 2003
Attorney Docket No. THERUS.007C1

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 16, 2008. On August 25, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee and $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FULWIDER PATTON LLP
200 OCEANGATE, SUITE 1550
LONG BEACH, CA 90802

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OFFICE OF PETITIONS

In re Application of :
James M. Cleland :
Application No. 10/633,728 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. CLELS.64850 :

This is a decision in response to the petition, filed May 11, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed September 28, 2006. A Notice of Abandonment was mailed on May 2, 2007. In response, on May 11, 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 $750; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received May 11, 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 OF PATENTS

March 23, 2005

Naishadh N. Desai
The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

In re Application of:
Sean Rees Klopfenstein
Serial No: 10/633744 On Petition
Filing Date: August 4, 2003
For: **TETRAHYDROISOQUINOLNYL SULFAMIC ACIDS**

In response to the petitions received by fax on November 15, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 17, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned January 20, 2004. The notice of abandonment was mailed on October 26, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Nonprovisional Application Papers on November 28, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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Director's Office
Office of Patent Publication

DAVID W. LYNCH
CHAMBLISS, BAHNER & STOPHEL
1000 TALLAN SQUARE-H
TWO UNION SQUARE
CHATTANOOGA, TN 37402

In re Application of :
CYRILLE, MARIE-CLAIRE, et al. :
Application No. 10/633,765 : **DECISION ON PETITION**
Filed: August 4, 2003 :
Attorney Docket No. HITG.025PA(0518) :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR § 1.181, received in the United States Patent & Trademark Office (USPTO) on June 26, 2006.

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 above-identified application was held abandoned for applicant's failure to timely pay the issue fee and publication fee, as required in the Notice of Allowance and Fee(s) Due, mailed February 2, 2006. The Notice of Abandonment mailed June 14, 2006 indicates that the submitted fee of $700 is insufficient. A balance of $1,000 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on May 4, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No.50-2587. Unfortunately, on May 5, 2006, when an attempt was made by the Office of Finance to charge the fee, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 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 inquires with respect to filing a petition under 37 CFR § 1.137 may 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 matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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CHAMBLISS, BAHNER & STOPHEL, P.C.
1000 TALLAN BUILDING
TWO UNION SQUARE
CHATTANOOGA, TN 37402

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OFFICE OF PETITIONS

In re Application of :
Marie-Claire Cyrille et al :
Application No. 10/633,765 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. HITG.025PA :
(0518)

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 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 2, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 2, 2006. The date of abandonment of this application is May 3, 2006. A Notice of Abandonment was mailed on June 14, 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 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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80 SCENIC DRIVE
FREEHOLD NJ 07728

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OFFICE OF PETITIONS

In re Application of	:	
Helynne Smith	:	
Application No. 10/633,782	:	ON PETITION
Filed: 4 August, 2003	:	
Atty Docket No. SMITH-H	:	

This is a decision on the paper entitled "COVER SHEET FOR PETITION SUBMISSION," filed on 13 July, 2006 (certificate of mailing date 7 July, 2006), which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

This application became abandoned on 11 June, 2006, for failure to timely submit a reply to the final Office action mailed on 10 January, 2006, which set a three (3) month shortened statutory period for reply. A two (2) month extension of time was filed on 13 July, 2006 (certificate of mailing date 7 July, 2006). The filing of the present petition precedes the mailing of Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Office action mailed on 10 January, 2006.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 10 January, 2006, 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 non-receipt of an Office communication 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 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.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Petitioner has not provided the showing discussed above.

Further, with respect to petitioner's request for "an additional month, until August 10, 2006" to respond to the final Office action, the Office action stated that in no event may a timely reply be filed after SIX (6) MONTHS from the mailing date thereof. 35 U.S.C. 133 states that upon failure of the applicant to prosecute the application within six months after any action thereon, the application shall be regarded as abandoned. Accordingly, extensions of time beyond six (6) months are not permitted by the patent statute, and the application is abandoned as a matter of law.

As such the application is properly held abandoned.

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 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

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

---

[1] 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).

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

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
DRW Feb-07

ARTHUR M. PESLAK, ESQ.
MANDEL & PESLAK, LLC
SUITE 5
80 SCENIC DRIVE
FREEHOLD NJ 07728

COPY MAILED

FEB 06 2007

OFFICE OF PETITIONS

In re Application of :
Helynne Smith :
Application No. 10/633,782 : ON PETITION
Filed: 4 August, 2003 :
Atty Docket No. SMITH-H :

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.181," filed on 13 November, 2006 (certificate of mailing date 6 November, 2006.

This application became abandoned on 11 June, 2006, for failure to timely submit a reply to the final Office action mailed on 10 January, 2006, which set a three (3) month shortened statutory period for reply. A two (2) month extension of time was filed on 13 July, 2006 (certificate of mailing date 7 July, 2006). The petition filed on 13 July, 2006 was dismissed on 5 October, 2006. Notice of Abandonment was mailed on 16 October, 2006.

In the present renewed petition, petitioner again requests that the Office withdraw the holding of abandonment due to non-receipt of the Office action mailed on 10 January, 2006.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 10 January, 2006, 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 non-receipt of an Office communication 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 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.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

Petitioner has provided a statement by the practitioner, Arthur M. Pelsak, stating that counsel reviewed the docket report, but that the docket report indicates that the Office action was not received. A copy of the docket report has been included with and referenced in the practitioner's statement.

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

The petition is **GRANTED.**

The application file is being referred to Technology Center 3700 technical support staff for remailing of the Office action mailed on 10 January, 2006. The period for reply will be reset from the mailing date thereof.

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

DIW Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 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).

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

ROSENTHAL & OSHA L.L.P.
Suite 2800
1221 McKinney Street
Houston TX 77010

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Timothy P. Beaton :
Application No. 10/633,796 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No.: :
05516/045003 :
Title: POLYCRYSTALINE DIAMOND :
COMPACT INSERT REAMING TOOL :

This is a decision on the petition filed November 20, 2003, requesting that Figure three (3) be accorded a filing date of August 4, 2003 as part of the original disclosure.

The application was deposited on August 4, 2003. However, on October 31, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (notice)", stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure three.

In response, on November 20, 2003, applicants filed the present petition. The petition is further accompanied by a copy of Figure three (3), along with a copy of applicants' postcard receipt acknowledging receipt of "3 sheets of drawings" in the United States Patent and Trademark Office (Office) on August 4, 2003. Applicants request that the application, including Figure three be accorded a filing date of August 4, 2003.

It is noted that two sheets of drawings have been located in the electronic file.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence

is convincing that the application papers deposited on August 4, 2003 included Figure three, and the sheet containing this Figure was subsequently misplaced in the Office.

Therefore, the application, including Figure three, was complete on filing and entitled to a filing date of August 4, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed October 31, 2003 was sent in error, and that potion is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 4, 2003, using the original application papers filed on that date, as well as the Figure three submitted on November 20, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-8-05

Pape

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6781232

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, sho
patent read as shown in the certificate of correction? No new matter should be introduced, r
the scope or meaning of the claims be changed.

Please Check Drawings

Thank You For Your Assistance

Certificates of Correction

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
- ☐ Denied — State the reasons for denial below.

Comments:

SPE

2818

A

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8/8/07

DATE : February 28, 2007

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: **7132530 B2 – 10/633843**

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:
All changes are matters of form and do not involve changes which would constitute new matter or require reexamination.

SPE

1635
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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OFFICE OF PETITIONS

ALEXZA MOLECULAR DELIVERY CORPORATION
1001 EAST MEADOW CIRCLE
PALO ALTO, CA 94303

In re Application of :
HALE, et al. :
Application No. 10/633,877 : DECISION ON PETITION
Filed: August 04, 2003 : TO WITHDRAW
Attorney Docket No. 00059.01R : 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 16, 2004

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

A review of the file record indicates that the power of attorney to ALEXA MOLECULAR DELIVERY CORPORATION has been revoked by the assignee of the patent application on February 03, 2005. 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 copied address below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: SWANSON & BRATSCHUN, L.L.C
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH CO 80129

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE USPTO
DEC 22 2006
INTELLECTUAL PROPERTY OFFICE

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DEC 20 2006
OFFICE OF PETITIONS

ALEXZA MOLECULAR DELIVERY CORPORATION
1001 EAST MEADOW CIRCLE
PALO ALTO, CA 94303

In re Application of :
HALE, et al. :
Application No. 10/633,877 : DECISION ON PETITION
Filed: August 04, 2003 : TO WITHDRAW
Attorney Docket No. 00059.01R : FROM RECORD
:

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

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: SWANSON & BRATSCHUN, L.L.C
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH CO 80129

RECEIVED
DEC 29 2006
OFFICE OF PETITIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-15-08

TO SPE OF : ART UNIT 1720

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/633847 Patent No. 6837418

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.

Should C of C be Approved

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1793
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT A. PARSONS
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX, AZ 85012

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
Stafford et al. :
Application No. 10/633,914 : ON PETITION
Filing Date: 08/04/2003 :
Attorney Docket Number: :
4240-P2A2D :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 20, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 18, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 19, 2005. A Notice of Abandonment was mailed November 11, 2005.

Applicant has submitted the issue and publication fees with the instant petition. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 0 1 2009

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application :
Frank :
Application No. 10/633,915 : PATENT TERM ADJUSTMENT
Filed: August 4, 2003 :
Dkt. No.: 113744.123 (US2) :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705," filed June 11, 2009. This matter is being properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1,217 days, not 999 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the sole 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 patent term adjustment application fee of $200.00 is hereby acknowledged. See, 37 CFR 1.18(e).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: John R. Frank	: DECISION ON REQUEST FOR
Patent Number	: 7599988	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/633,915	: 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 **1433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 14 2010

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,599,988
Issued: October 6, 2009
Application No. 10/633,915
Filed: August 4, 2003
Dkt. No.: 113744.123 (US2)

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on December 7, 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 1,217 days.

The petition to correct the patent term adjustment indicated on the above-identified patent 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 April 8, 2008, the day before the RCE was filed, and not April 9, 2008 the day of filing of the RCE, as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 613 days not 614 days. As such, the correct patent term adjustment is 1,216 days, not 1,217 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. See 37 CFR 1.323(a)(4).

The required patent term adjustment application fee of $200.00 set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 08-0219 as authorized. 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 1,216 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,599,988 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Frank

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 999 days

Delete the phrase "by 999 days" and insert – by 1,216 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/633,920	08/04/2003	Paul Spivak	SPV-10-5707

CONFIRMATION NO.
4940

DRIGGS, LUCAS, BRUBAKER & HOGG CO., L.P.A.
DEPT. DLBH
8522 EAST AVENUE
MENTOR OH 44060

Date Mailed: May 20, 2004

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) filed on March 17, 2004, 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 on April 22, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040075065A1, 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, PGPub Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication,
PGPub Division

Rev. 10/01

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-28-08

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/633926 Patent No.: 6883574

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.

Should C of C be approved

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

Orus Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1791 (1733)

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 3791
ORLANDO, FL 32802-3791

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Timothy E. Durham, et al. :
Application No. 10/633,929 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No.: GCSD-1429 :
:

This is a decision on the petition, filed October 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 11, 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 2821 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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Ralph W. Selitto, Jr.
C/O McCarter & English, LLP
Gateway Center Four
100 Mulberry Street
Newark, NJ 07102

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SEP 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Jack J. Johnson et al.
Application No. 10/633,937
Filed: August 4, 2003
For: BIDDING FOR ENERGY SUPPLY TO RESELLERS AND THEIR CUSTOMERS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 15, 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(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) 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 (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 January 15, 2004 meets 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.

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

KJD/vdb: 8/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,943	08/04/2003	Gregory Winfield Gorman	408392	5211

30955 7590 05/02/2008

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

EXAMINER	
AHMAD, NASSER	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
05/02/2008	PAPER

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

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

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glm

Mailed : 5-2-08

In re Application of	:	DECISION
Gregory W. Gorman	:	GRANTING
Serial No. 10/633,943	:	PETITION
Filed: August 4, 2003	:	
For: INFORMATION-BEARING PAVEMENT TAPE	:	

This is a decision on the March 6, 2008 "Petition to the Director under 37 CFR 1.181 and 1.182."

Applicant filed an appeal brief on May 2, 2007, which was followed in due course by the examiner's answer mailed August 22, 2007. This in turn was followed by a reply brief filed on October 22, 2007. In a communication dated January 8, 2008, the examiner refused entry of the reply brief.

The instant petition was then timely filed on March 6, 2008 and is before the Director of Technology Center 1700 for consideration. The petition requests that the reply brief of October 22, 2007 be entered and considered.

The petition is **GRANTED** for the reasons below.

DECISION

As background, reply briefs and the proper treatment thereof are governed by 37 CFR 41.41 and 41.43:

> § 41.41 Reply brief.
> (a)
> (1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer.
> (2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.
> (b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with

paragraph (a) of this section.
(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings.

§ 41.43 Examiner's response to reply brief.
(a)
(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.
(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.
(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.
(c) Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for ex parte reexamination proceedings.

As noted in MPEP 1208, "Under 37 CFR 41.41(a)(1) and 41.43(b), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer... If a reply brief is filed in compliance with 37 CFR 41.41, the primary examiner must acknowledge receipt and entry of the reply brief."

In the instant case, the reply brief was in compliance with 37 CFR 41.41, as it was filed within two months of the answer and did not include any new or non-admitted amendment, affidavit, or other evidence. The examiner thus had no basis to entry to the reply brief.

Therefore the instant petition is **GRANTED.**

The application is being forwarded to the art unit, for entry and consideration of the reply brief, and for other such action as may be appropriate.

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

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/31/2007

TO SPE OF : ART UNIT 2800 (2818)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,829,182 B2 SN. 10/633,956

Attn: Son Mai

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to enter Other Documents as requested in C of C?

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
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 Art 2827

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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER,LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Kazutaka Inukai	:	
Application No. 10/633,964	:	DECISION GRANTING PETITION
Filed: August 4, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0376	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 December 20, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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IVAN S. KAVRUKOV, ESQ.
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of :
Osamu Suzuki :
Application No. 10/633,976 :
Filed: August 4, 2003 :
Attorney Docket No. 2271/70770 :

ON PETITION

This is a decision on the papers styled, "Response to January 19, 2005 Notice to File Missing Parts," filed on March 1, 2005, 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 4, 2003, including Figures 2, 3A and 3B described in the specification.

The application was filed on August 4, 2003. However, on January 19, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 2, 3A, 3B described in the specification appear to have been omitted.

In response, on March 1, 2005 the instant petition and four (4) sheets of drawings were submitted. A copy of applicant's postcard receipt that acknowledges receipt of "4 drawing sheets (Figs 1-3B)" on August 4, 2003, accompanied the papers. A review of the application file indicates the presence of only one (1) sheet of drawings originally filed on August 4, 2003, with the sheets that contain Figures 2, 3A and 3B missing. It is assumed that the missing sheets of drawings containing Figures 2, 3A and 3B were misplaced by the Office.

In view of the above, the petition is granted.

The petition fee has not been charged.

This application will be returned to OIPE for processing with a filing date of August 4, 2003, using the three (3) sheets of drawings, containing Figures 2, 3A and 3B, that were submitted with the petition on March 1, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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SIGNATURE MARINE, DAVID THOMPSON
4012 NORTH 30 AVENUE
HOLLYWOOD, FL 33020

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FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

In re application of
David Thompson
Application No. 10/634,006
Filed: August 04, 2003
For: FISHING ROD HOLDER

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on October 01, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of October 27, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

KJD/slb: 11/29/04

cc: LERNER AND GREENBERG, PA
P.O. Box 2480
HOLLYWOOD, FL 33022-2480

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LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS MD 21403

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OFFICE OF PETITIONS

In re Application of
Yoshinori et al.
Application No. 10/634,016
Filed: August 4, 2003
Patent No. 6,814,451
Issued: November 9, 2004
Attorney Docket No. 23348

DECISION ON PETITION

This is a decision on the request under 37 CFR 3.81(b)[1], filed July 29, 2009, 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**.

Petitioner indicates that the correct assignees are Nippon Oil Corporation and Kabushiki Kaisha Honda Lock. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent.

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

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

A certificate of correction (and fee) and the processing fee set forth in § 1.17(i) were submitted, as required by 3.81(b). Further, Office assignment records reflect that Nippon Oil Corporation and Kabushiki Kaisha Honda Lock are the assignees of record, which assignments were submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the

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

request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS, OH 43201-2693

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Cao et al. :
Application No. 10/634,020 :
Filed: August 4, 2003 : ON PETITION
Title of Invention: :
RESISTANCE SPOT WELDING :
ELECTRODE :

This is a decision on the Petition under 37 CFR 1.182, filed November 4, 2004, to change the order of the names of the inventors.

The Petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Zhenning Cao
2. Pingsha Dong
3. Feng Lu

This application is being forwarded to Technology Center 1725 via Application Branch Data Input to change the order of inventorship.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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MORGAN & FINNEGAN, L.L.P.
THREE WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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AUG 1 1 2006

OFFICE OF PETITIONS

In re Application of :
Masahiro Tamegai :
Application No. 10/634,052 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 1232-5098 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed August 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 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; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUN 20 2005

Constantine N. Colyvas
59 Valoric Road
Southampton, NY 11968

In re application of : **DECISION ON PETITION**
Constantine N. Colyvas : **TO MAKE SPECIAL**
Application No. 10/634,068 : **(APPLICANT'S AGE)**
Filed: August 04, 2003 :
For: OMNI THRUSTER FOR SINGLE OR TWIN INBOARD MOTOR BOATS

This is a decision on the petition submitted on August, 04, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Colyvas indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 06/14/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/07

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/634073** Patent No.: **6884654**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

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_____

SPE 2822 Art Unit

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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
10/634,103	08/01/2003	2873	1350	1604-459	16	44	5

CONFIRMATION NO. 5859

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

CORRECTED FILING RECEIPT

OC000000014050032

Date Mailed: 10/12/2004

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)

Brian R. Johnson, Superior, CO;
Thomas Ulrich Kampe, Boulder, CO;

Power of Attorney:

David Zinger–29127
Todd Blakely–31328
Craig C. Groseth–31713
Gary J. Connell–32020
Joseph E. Kovarik–33005
Sabrina Stavish–33374
Lewis Hansen–35536
Douglas Swartz–37739
Brent Johnson–38031
Bruce A. Kugler–38942

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/29/2003

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/634,103

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and apparatus for providing a gas correlation filter for remote sensing of atmospheric trace gases

Preliminary Class

359

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6914255
Issue Date: July 5,2005
Application No. 10634140
Filed: August 4,2003
Attorney Docket No. ITO.0552US (P16160)

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

This is a decision on the electronic petition, filed November 3,2009 ,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 November 3,2009 . 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

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

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Brian G. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7596016	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/634,146	: 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 **1452** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Hiroshi Ogawa	: DECISION ON REQUEST FOR
Patent Number	: 7640431	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/634,155	: 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 **1188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GREENBERG TRAURIG LLP
MET LIFE BUILDING
200 PARK AVENUE, 34TH FLOOR
NEW YORK, NY 10166

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of :
Jean Pierre Giraud :
Application No. 10/634,156 :
Filed: August 4, 2003 :
Attorney Docket No. 63056.TBA :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 10, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on October 24, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Thomas M. Graettinger	:	
Application No. 10/634,163	:	DECISION GRANTING PETITION
Filed: August 5, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 303.841US1	:	

This is a decision on the petition, filed September 18, 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 23, 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 2826 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\Sept9\634163.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.*

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STARKWEATHER & ASSOCIATES
9035 S 1300E
SUITE 200
SANDY, UT 84094

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of :
Ronald Nasco :
Application No. 10/634,189 :
Filed: August 4, 2003 :
Attorney Docket No. 3023.2.6 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the amendment filed November 15, 2004.

The petition is DISMISSED.

A 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 petition does not comply with item (2)

Petitioner has submitted $1330.00. However, the surcharge fee required to accompany a petition under 37 CFR 1.78 is $1370.00. See 37 CFR 1.17(t). As such, the petition will not be reviewed on the merits at this time. Petitioner must submit an additional $40.00.

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 Petitions Attorney Edward Tannouse at (571) 272-3228.

Frances Hicks

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

Starkweather & Associates
9035 South 1300 East, Suite 200
Sandy, UT 84094
Ph: (801) 272-8368
Fax: (801) 748-1030

FAX COVER SHEET

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DATE: November 1, 2005
FAX #: 1-571-273-8300
TO: Office of Petitions
FROM: Diann Herring, Assistant to Michael Starkweather
RE: Reply to Decision on Petition mailed 10-26-05 for Ronald Nasco

Number of Pages including cover page: 6

Docket No. 3023.2.1 CIP (mistakenly noted as 2.6)
Client Ronald Nasco
Serial No. 10/634,189 **Filing Date** Aug. 4, 2003
Assignee/Mark
Date Faxed November 1, 2005

Please acknowledge receipt of:

- ☐ Application _____ Pages
  - ☐ Provisional ☐ Design ☐ Cont. ☐ Div. ☐ RCE
  - ☐ Utility Total Claims _____ Indep Claims _____
  - ☐ Drawings _____ Sheets _____ Figures
- ☐ Assignment ☐ Cover Sheet ☐ Fee
- ☑ Certificate of Transmission
- ☑ Credit Card Payment Form, PTO-2038, for $ 40.00
- ☑ Fee Transmittal
- ☐ Copy of Signed Fee Transmittal
- ☑ Transmittal Letter or Form
- ☐ Declaration and Power of Attorney
- ☐ IDS, ☐ Form SB/08 or 1449 ☐ References
- ☐ Issue Fee Transmittal
- ☐ Maintenance Fee Transmittal _____ Year
- ☐ Request for Certification for Non-Publications
- ☐ Response to Office Action
- ☐ Affidavit
- ☐ Amendment
- ☐ Extension of Time Petition _____ Months
- ☑ Copy of Decision on Petition
- ☐ _____
- ☐ _____

☐ ATTORNEY: MWS – 34,441

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/634,189
Filing Date	August 4, 2003
First Named Inventor	Ronald Nasco
Art Unit	3751
Examiner Name	Charles E. Phillip
Attorney Docket Number	3023.2.1 CIP (misnamed 2.6)

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
- [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):

Remarks

Copy of Decision on Petition, mailed Oct. 26, 2005

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Starkweather & Associates Cust No. 48309		
Signature	Michael W. Starkweather		
Printed name	Michael W. Starkweather		
Date	11/1/05	Reg. No.	34,441

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	Diann Herring		
Typed or printed name	Diann Herring	Date	1 November 2005

This collection of information is required by 37 CFR 1.5. 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 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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PTO/SB/17 (12-04v2)
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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.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 40.00

Complete if Known	
Application Number	10/634,189
Filing Date	August 4, 2003
First Named Inventor	Ronald Nasco
Examiner Name	Charles E. Phillip
Art Unit	3751
Attorney Docket No.	3023.2.1 CIP (misnamed 2.6)

METHOD OF PAYMENT (check all that apply)

☐ Check ☑ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____ =	0

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____ x	_____ =	0

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)
0	0

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____ =	0

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	0
Other (e.g., late filing surcharge): Balance of fee for Petition for Unintentionally Delayed Benefit Claim	40.00

SUBMITTED BY

Signature	Michael W. Starkweather	Registration No. (Attorney/Agent) 34,441	Telephone 801-272-8368
Name (Print/Type)	Michael W. Starkweather		Date 1 November 2005

This collection of information is required by 37 CFR 1.136. 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 30 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.

Adjustment date: 11/03/2005 WABDELR1
05/13/2005 AWONDAF1 00000008 10634189
01 FC:1999 -1330.00 OP

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9035 S 1300E
SUITE 200
SANDY, UT 84094

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OFFICE OF PETITIONS

In re Application of	:	
Ronald Nasco	:	DECISION ON PETITION
Application No. 10/634,189	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: August 4, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3023.2.6	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the amendment filed November 15, 2004.

The petition is DISMISSED.

A 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 petition does not comply with item (2)

Petitioner has submitted $1330.00. However, the surcharge fee required to accompany a petition under 37 CFR 1.78 is $1370.00. See 37 CFR 1.17(t). As such, the petition will not be reviewed on the merits at this time. Petitioner must submit an additional $40.00.

11/03/2005 WABDELR1 00000064 10634189
01 FC:1454 1370.00 OP

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 Petitions Attorney Edward Tannouse at (571) 272-3228.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel E. Pedersen, et al	:	
Application No. 10/634,196	:	DECISION ON PETITION
Filed: August 4, 2003	:	TO WITHDRAW
Attorney Docket No. 163.1796US01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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).

Sarah M. Monfeldt has been withdrawn as attorney 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Joseph P. Odenwalder	:	
Application No. 10/634,247	:	DECISION GRANTING PETITION
Filed: August 4, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PA510B1C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 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 reply to the Final Rejection of June 7, 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 2618.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,959,951	2005-11-01	10/634,264	2003-08-05	

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

Sole Patentee			
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	/JOHN C. AMODEO/	Date (YYYY-MM-DD)	2010-04-12
Name	JOHN C.AMODEO		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

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

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

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

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

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

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

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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

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In re Patent No. 6959951
Issue Date: November 1,2005
Application No. 10634264
Filed: August 5,2003
Attorney Docket No. P06652US0

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

This is a decision on the electronic petition, filed April 12,2010 ,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 April 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Kevin J. Moriarty
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One John Deere Place
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OFFICE OF PETITIONS

In re Application of
Scott Charles McCARTNEY
Application No. 10/634,265
Filed: August 5, 2003
Attorney Docket No. 16367-US

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, 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 August 31, 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 December 1, 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 a Request for Continued Examination (RCE) and amendment under 37 CFR 1.114; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 31, 2004 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center Art Unit 3671 for appropriate action.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 05/03/2010

Applicant	: Karen M. Haberstroh	: DECISION ON REQUEST FOR
Patent Number	: 7622129	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/634,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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P.O. Box 464
Duncan, SC 29334

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OFFICE OF PETITIONS

In re Application of :
Roberts, Moffitt, Dayrit, Childress, Gauthier, and Lambert :
Application No.: 10/634,294 : DECISION ACCORDING
Filed: August 5, 2003 : RULE 47(a) STATUS
Attorney Docket No: D-42878-01 :
For: HIGH FREE SHRINK, HIGH MODULUS, LOW SHRINK TENSION FILM WITH ELASTIC RECOVERY :

This is in response to the petition under 37 CFR 1.47(a), filed April 5, 2004.

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 August 5, 2003, and was not accompanied by an executed declaration or the filing fee. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 3, 2003, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On April 5, 2004, the instant petition was filed along with a request for an extension of time within the third month.

Petitioner has shown that inventor Moffitt has constructively refused to join the filing of the above-identified application after having been presented with 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries 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
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Alexandria, VA 22313-1450
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Ronald Moffitt
128 Hedrick Drive
Chatham, VA 24531

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OFFICE OF PETITIONS

In re Application of
Roberts, Moffitt, Dayrit, Childress, Gauthier, and Lambert
Application No. 10/634,294
Filed: August 5, 2003
Attorney Docket Number: D-42878-01
For: HIGH FREE SHRINK, HIGH MODULUS, LOW SHRINK TENSION FILM WITH ELASTIC RECOVERY

LETTER

Dear Mr. Moffitt:

You are named as a joint inventor in the above-identified United States reissue 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. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. 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

Sealed Air Corporation
PO Box 464
Duncan, Sc 29334

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Paper No.

Arnold S. Weintraub
The Weintraub Group
Suite 240
32000 Northwestern Highway
Farmington Hills MI 48334

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In re Application of :
Alfredo Sasian : DECISION ON PETITION
Application No. 10/634,308 :
Filed: August 5, 2003 :
Atty Docket No. SSC-110-A :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 28, 2006.

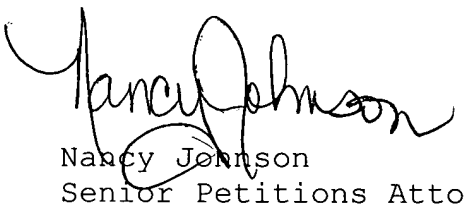
The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed February 28, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective May 29, 2005. A courtesy Notice of Abandonment was mailed on September 20, 2005

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3724 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed August 28, 2006.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Patent No. 7,537,900	:	
Dotan, et al.	:	DECISION ON
Application No. 10/634,309	:	REQUEST FOR
Issue Date: May 26, 2009	:	RECONSIDERATION OF
Filed: August 4, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	AND NOTICE OF INTENT TO
25681-501	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed July 24, 2009. Patentees request that the determination of patent term adjustment be corrected from four hundred thirty-six (436) days to nine-hundred ninety-one (991) 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 in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred forty-seven (447) days.

BACKGROUND

This application was filed on August 4, 2003. On May 26, 2009, the application matured into U.S. Patent No. 7,537,900 with a revised patent term adjustment of 436 days. The Office determined that the 636 days of Office delay pursuant to 35

U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 721 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 721 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. The patent issued with a revised patent term adjustment of 436 days (721 days of Office delay - 285 days of applicant delay.)

---

[1] 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)[.]

[2] As of the filing of the RCE on May 1, 2008, the application was pending three years and 636 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) Respond to reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or appeal was taken;

[4] A first Office action was not mailed until April 10, 2006, fourteen months and 553 days after the application filing date of August 4, 2003. A final rejection was mailed November 1, 2007, four months and 168 days after a reply was filed on January 17, 2007.

On July 24, 2009, patentees timely submitted this request for reconsideration of patent term adjustment asserting that the correct number of days of Patent Term Adjustment is 991 days, based in part, under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under § 154(b)(1)(A) & (B) is 1,188 (721 + 467) days as these periods do not occur on the same day.

Patentees further asserts that the period reduction of 111 days under 37 CFR 1.704(c)(10) for filing an amendment under § 1.312 and drawings on February 5, 2009, after the mailing of the notice of allowance, is incorrect. Rather, the period adjustment set forth in § 1.703 should be reduced by only 23 days.

OPINION

Patentees dispute the reduction of 111 days for filing the amendment under § 1.312 and drawings on February 5, 2009, after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10). Specifically, patentees assert that the Office mailed a "Response to Rule 312 Communication" in response to the amendment and drawings on February 27, 2009. Patentees contend that the period of reduction should be 23 days (not 111 days), counting the number of days beginning on the filing date of the amendment under § 1.312 and drawings, February 5, 2009, and ending of the mailing date of the "Response to Rule 312 Communication", February 27, 2009, in response to the amendment under § 1.312 and drawings.

Patentees' contention is well taken. 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice

> in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, the record reveals that the Office took action in response to the filing of amendment under § 1.312 and drawings on February 27, 2008. Accordingly, the period of adjustment of the term of the patent should have been reduced by 23 days, not 111 days. The period of reduction of 111 days will be removed and a period of reduction of 23 days will be entered.

However, a further review of the application history reveals that patentees should have been assessed an additional period of delay for the filing of a "COMMUNICATION" on March 11, 2009, after the mailing of the 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).

In this instance, it is undisputed that patentee filed the "COMMUNICATION" after the mailing of the notice of allowance. The Office did not address the "COMMUNICATION" before the issuance of the patent. Thus, the period of adjustment should have been reduced by the lesser period of 77 days, beginning on the date the "COMMUNICATION" was filed, March 11, 2009, and ending on the date the patent issued, May 26, 2009. Accordingly, a period of reduction of 77 days will be entered.

With regard to the argument under 37 CFR 1.702(b), patentees' 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).

Patentees' 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)*[5] *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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of*

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[5] 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.

35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 4, 2003, and ending on the date of filing of a request for continued examination (RCE), May 1, 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) and (a)(2), 721 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), 636 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application[6].

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[6] The Office notes that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentees used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the period of adjustment is 636 days (not 635 days as suggested by patentees), counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), August 5, 2006, and ending on the date the request for continued examination was filed, May 1, 2008. "When a period is

All of the 636 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 721 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(2). Entry of both the 721 days and the 636 days is neither permitted nor warranted. 721 days is the actual number of days issuance of the patent was delayed.

CONCLUSION

In view of, the patent term adjustment indicated on the patent should be 447 days (721 days of Office delay - 274 (84 + 90 + 23 + 77) days of applicant delay)).

This matter is being referred 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 **447 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 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

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indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,537,900 B2

DATED : May 26, 2009

INVENTOR(S) : Dotan, 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 (436) days

Delete the phrase "by 436 days" and insert – by 447 days--

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025-1030

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Shu et al. :
Application No. 10/634,326 : DECISION ON PETITION
Filed: August 4, 2003 : TO WITHDRAW
Attorney Docket No. 005306.P107 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Blakely, Sokoloff, Taylor & Zafman LLP have been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/634,326	08/04/2003	Shu Lei	5306P107

CONFIRMATION NO. 6782

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

OC000000020636930
OC000000020636930

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- 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).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JEFFRY S. MANN
MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO, CA 94105

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Polito et al.	:	DECISION ON PETITION
Application No. 10/634,331	:	TO WITHDRAW
Filed: August 4, 2003	:	FROM RECORD
Attorney Docket No. RLA0005-202-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 June 2, 2006.

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

A review of the file record indicates that on June 28, 2006 the power of attorney to Morgan, Lewis & Bockius LLP (SP) 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: Global Patent Group – RLA
Mr. Dennis A. Bennett
Global Patent Group, LLC
10411 Clayton Road, Suite 304
St. Louis MO 63138

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PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON TX 77057-1130

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Halliday et al. :
Application No. 10/634,334 : DECISION GRANTING PETITION
Filed: August 4, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 154-23110-USCP :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/211,162, filed June 13, 2000, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/211,162, which was filed on June 13, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1712 for appropriate action on the amendment submitted June 11, 2007, 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. 60/211,162.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/634,334	08/04/2003	1712	1966	154-23110-USCP	43	11

CONFIRMATION NO. 6745

CORRECTED FILING RECEIPT

OC000000024768094

24923
PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

Date Mailed: 07/11/2007

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

Applicant(s)

William S. Halliday, Cypress, TX;
David Schwertner, The Woodlands, TX;
Tao Xiang, Houston, TX;
Dennis Clapper, Houston, TX;

Assignment For Published Patent Application

Baker Hughes Incorporated, Houston, TX

Power of Attorney:

Darryl Springs--24799
Stephen Littlefield--27923
David Mossman--29570
Paul Madan--33011
J Riddle--33445
Matt Carson--33662
Gene Tyler--35395
G. Roebuck--35662
Shawn Hunter--36168
Brian Welborn--39065

Domestic Priority data as claimed by applicant

This application is a CIP of 09/785,842 02/16/2001 PAT 6,703,351
which claims benefit of 60/211,162 06/13/2000

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/634,334

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Water-based drilling fluids using latex additives

Preliminary Class

507

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).

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/634,337	CHUNG ET AL.	

Document Code - DISQ	Internal Document – DO NOT MAIL

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Date Filed : October 11, 2005	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
Henry D. Jefferson

UNITED STATES PATENT AND TRADEMARK OFFICE

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c/o The Law Office of Robert A. McLauchlan
P.O. BOX 26780
AUSTIN TX 78755

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AUG 20 2008

In re Application of :
Thomas E. Drake Jr., et al. :
Application No. 10/634,342 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. LMP051USC1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 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 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 2, 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 $1540.00, and (3) a proper statement of unintentional delay.

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.

The Revocation Power of Attorney submitted with the petition on November 9, 2007, is not accepted. The Revocation Power of Attorney was sign by John F. McGowan, acting on behalf of the assignee. However, the Revocation and Power of Attorney does not comply with 37 CFR 3.73(b) it does not state that the person who signed is authorized to act on behalf of the assignee (*See* 37 CFR 3.73(b)). 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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed. A copy of a blank 3.73(b) Certificate is enclosed with this decision.

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

This application is being referred to Technology Center AU 2886 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James E. Bradley
Bracewell & Giuliani LLP
P.O. Box 61389
Houston, TX 77208-1389

Attachment: Blank 3.73(b) Certificate

PTO/SB/96 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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.

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 31 2007

OFFICE OF PETITIONS

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

In re Application of :
Chon Yie Lin et al :
Application No. 10/634,351 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 2002B107A :

This is a decision on the petition filed September 6, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on August 2, 2006, with the issue fee being due on or before November 2, 2006. A Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) was filed on October 10, 2006. Since the filing of an RCE and submission was filed prior to November 2, 2006, the filing of a petition under 37 CFR 1.137(b) is unnecessary. The $1500 petition fee submitted on September 6, 2006 is being credit to petitioner's deposit account.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Abraham Hershkovitz
Hershkovitz & Associates
2845 Duke Street
Alexandria, VA 22314

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BAYTOWN, TX 77522-2149

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Chon Yie Lin et al :
Application No. 10/634,351 : DECISION ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. 2002B107A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application. The decision mailed May 31, 2007 is vacated in favor of this decision on petition.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 5, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a).[1] Accordingly, the date of abandonment of this application is May 6, 2006.

The record discloses that a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed on August 2, 2006. The Notice of Allowability contains the following statement: "Authorization for this examiner's amendment was given in a telephone interview with Catherine L. Bell on July 20, 2006." The authorization for the examiner's amendment was given after expiration of the six-month statutory period provided for reply.

MPEP Section 706.07(II)(F), under Examiner's Amendments, states that an examiner's amendment may not be made more than six months

[1] At the time of filing of the amendment on May 5, 2006, a two-month extension of time was due. Office records fail to indicate that this fee was ever charged. Accordingly, as authorized, the $450 two-month extension of time fee will be charged to petitioner's deposit account.

from the date of the final Office action, as the application would be abandoned at that point by operation of law. Further, interviews must be conducted within the six-month statutory period for reply. *See* MPEP 706.07(III)(K). As the authorization for the Examiner's Amendment was not given within the six-month statutory period provided for reply, this application became abandoned by operation of law on May 6, 2005.

This petition satisfies the requirements of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action of December 5, 2005 is accepted as being unintentionally delayed.

The refunded petition fee of $1,500 will be charged back to petitioner's deposit account.

The file record discloses that a Request for Continued Examination was filed on October 10, 2006, prior to the November 2, 2006 date set in the Notice of Allowance and Fee(s) Due, mailed August 2, 2006, for payment of the issue fee. A non-final Office action was mailed on June 7, 2007. Failure to timely reply within the period set will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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EXXONMOBIL CHEMICAL COMPANY
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P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/07/2010

Applicant	: Chon Yie Lin	: DECISION ON REQUEST FOR
Patent Number	: 7632887	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/634,351	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS J. TIGHE, ESQ.
6265 GREENWICH DRIVE, SUITE 103
SAN DIEGO, CA 92122-5916

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Norm Pressley	:	DECISION ON PETITION
Application No. 10/634,363	:	UNDER 37 CFR 1.137(b)
Filed: August 4, 2003	:	
Attorney Docket No. 5462 PA01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue fee on or before August 10, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed May 10, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $700 issue fee; the petition fee of $750; and the required statement of unintentional delay have been submitted. Accordingly, the issue fee is 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
WWW.USPTO.GOV

Paper No. None

Thomas J. Tighe, Esq.
Suite 103
6265 Greenwich Drive
San Diego CA 92122-5916

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SEP 11 2006

OFFICE OF PETITIONS

In re Application of :
Norm Pressley :
Application No. 10/634,363 : DECISION ON PETITION
Filed: August 4, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 5462 PA01 :
Title: PUTTER ALIGNMENT :
TRAINING SYSTEM :

This is a decision on the petition filed on July 24, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice Regarding Drawings, mailed September 16, 2005, which set a 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 November 17, 2005. A notice of abandonment was mailed on June 15, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, 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[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

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 Office of Patent Publication will be notified of this decision. The Office of Patent Publication will review the drawings submitted with the present petition.

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

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF J. NICHOLAS GROSS, PROF. CORP.
2030 ADDISON ST.
SUITE 610
BERKELEY CA 94704

COPY MAILED

JAN 1 1 2010

In re application of :
Min-Chih John Hsuan :
Application No. 10/634,404 : NOTICE
Filed: August 5, 2003 :
Attorney Docket No. UMC99-001D2 :

This is a notice regarding your communication filed November 4, 2009, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

Petitioner asserts that the first maintenance fee (10/13/2009); filing fee (08/05/2003) and amendment (03/17/2005) were incorrectly paid at the small entity rate. However, the petition does not comply with the requirements under 37 CFR 1.28(c)(2)(ii), which states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> > A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee; two-month extension of time fee) along with the current fee amount for a non-small entity;
> >
> > (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> >
> > (C) The deficiency owed amount (for each fee erroneously paid); and
> >
> > (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

A review of the Office finance records for the above application does **not** show that $384.00 was charged on March 17, 2005, for an amendment as stated in the instant petition.

Applicant is given **ONE MONTH** to submit a complete listing of the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a). Note also 37 CFR 1.28(c)(3).

All future fees paid in this application must be paid at the large entity rate.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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2030 ADDISON ST.
SUITE 610
BERKLEY CA 94704

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,030,466	:	
Issue Date: April 18, 2006	:	
Application No. 10/634,404	:	NOTICE
Filed: August 5, 2003	:	
Attorney Docket No. UMC99-001D2	:	

This is a notice regarding your communication filed February 5, 2010, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is signed by Yt Tsai. See 37 CFR 1.33(b), which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

The Office failed to indicate the above in the Notice mailed January 11, 2010.

Applicant is given **ONE MONTH** to correct the above matter. This time period is not extendable under 37 CFR 1.136(a). Note also 37 CFR 1.28(c)(3).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,030,466
Issue Date: April 18, 2006
Application No. 10/634,404
Filed: August 5, 2003
Attorney Docket No. UMC99-001D2

NOTICE

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on April 23, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/9/08

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/634406 Patent No.: 7346785 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 2115 Art Unit

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Paper No.

JHK Law
P.O. Box 1078
La Canada CA 91012-1078

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APR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Park et al.	:	DECISION ON
Application No. 10/634,408	:	PETITION
Filed: August 5, 2003	:	
Atty Docket No. 57354-08USA	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 17, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed July 21, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the second month, was filed on December 14, 2006. However, the reply was determined by the examiner to not place the application in condition for allowance (Advisory Action mailed April 3, 2007). No proper reply having been received and no further extension of time obtained the application became abandoned effective December 22, 2006. A courtesy Notice of Abandonment was mailed on October 16, 2007.

On petition, petitioner submits a Request for Continued Examination (RCE) and submission under §1.114 (in the form of a supplemental response); pays the petition fee; and makes the required statement of unintentional delay. Petitioner has met

all requirements for a grantable petition to revive under 37 CFR 1.137(b).

Technology Center AU 1633 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed December 17, 2007.

The petition also includes a credit card payment of the fee of $300 for extension for response within the third month. The maximum period for extension for response to the Notice ended on January 21, 2007. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee for such extension is being refunded to the credit card.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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MAR 18 2010

In re Application of	:	
Ryan J. Highland	:	
Application No. 10/634,415	:	ON APPLICATION FOR
Filed: 08/05/2003	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 03-767	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed December 23, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand three hundred forty-three (1,343) days, not one thousand sixty-four (1,064) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to 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

ALFRED M. WALKER
PATENT ATTORNEY
225 OLD COUNTRY RD.
MELVILLE NY 11747

COPY MAILED

FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Errera, Richard Ben	:	
Application No. 10/634,438	:	ON PETITION
Filed: August 5, 2003	:	
Attorney Docket No. 250311	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 25, 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 a Terminal Disclaimer; (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 Notice of Acceptance of Power of Attorney is enclosed.

This matter is being referred to Technology Center 1700 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

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/634,438	08/05/2003	Richard Ben Errera	250311

CONFIRMATION NO. 8284

OC000000022287090

OC000000022287090

ALFRED M. WALKER
PATENT ATTORNEY
225 OLD COUNTRY RD.
MELVILLE, NY 11747

Date Mailed: 02/01/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/25/2006.

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.

LIANA S WALSH
OP (571) 272-3206

ATTORNEY/APPLICANT COPY

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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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

COPY MAILED

JUN 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Skurkovich et al.	:	
Application No. 10/634,441	:	ON PETITION
Filed: August 5, 2003	:	
Attorney Docket No. 53663-5007-02	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 14, 2003, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a Declaration from the applicant, Simon Skurkovich. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 1645 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Harano et al. :
Application No. 10/634,449 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 14095Z :

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. 1.53," filed August 11, 2004. Petitioners request that the Office accord the above-identified application a filing date of August 5, 2003, with inadvertently omitted figures 18-20 considered part of the original application disclosure by virtue of an incorporation by reference statement.

Application papers in the above-identified application were filed on August 5, 2003. On November 3, 2003, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were advised that the application had been accorded a filing date of August 5, 2003; however, figures 18-20 described in the specification appeared to have been omitted from the application.

On November 17, 2003, applicants responded, supplying figures 18 - 20. No preliminary amendment requesting entry of this material accompanied this submission. The Office responded according the application a filing date of November 17, 2003, the later date on which the omitted figures were supplied[1]. In response to the according of the November 17, 2003 filing date, applicants filed the instant petition.

The petition is **GRANTED** to the extent indicated herein.

---

[1] This was in error to the extent that no petition fee was charged and no declaration referring to the later filing drawing figures accompanied this submission. Without these items, the application should have retained a filing date of August 5, 2003, without figures 18-20.

MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

Petitioner states that the instant application is a continuation of application No. 09/727,876 and claims benefit to Japanese Application No. H11-368189, which is incorporated by reference.

Absent the Office's changing of the filing date from August 5, 2003 to November 17, 2003, the instant petition would have been dismissed as inappropriate. (Pursuant to MPEP 201.06(c), only the filing of the preliminary amendment for consideration by the examiner would have been necessary).

Given the basis for granting this petition, no petition fee is required and no fee has been charged.

A preliminary amendment to amend the specification to include figures 18-20 should be filed prior to the first Office action on the merits to avoid further delay in the prosecution of this application.

The application is being returned to the Office of Initial Patent Examination for **correction of the filing date to August 5, 2003**, using the papers received in the Office on that date.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Harano et al. :
Application No. 10/634,449 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 14095Z :

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. 1.53," filed August 11, 2004. Petitioners request that the Office accord the above-identified application a filing date of August 5, 2003, with inadvertently omitted figures 18-20 considered part of the original application disclosure by virtue of an incorporation by reference statement.

Application papers in the above-identified application were filed on August 5, 2003. On November 3, 2003, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were advised that the application had been accorded a filing date of August 5, 2003; however, figures 18-20 described in the specification appeared to have been omitted from the application.

On November 17, 2003, applicants responded, supplying figures 18 - 20. No preliminary amendment requesting entry of this material accompanied this submission. The Office responded according the application a filing date of November 17, 2003, the later date on which the omitted figures were supplied[1]. In response to the according of the November 17, 2003 filing date, applicants filed the instant petition.

The petition is **GRANTED** to the extent indicated herein.

---

[1] This was in error to the extent that no petition fee was charged and no declaration referring to the later filing drawing figures accompanied this submission. Without these items, the application should have retained a filing date of August 5, 2003, without figures 18-20.

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

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

In re Application of
Won-Ick Ahn
Application No. 10/634,451
Filed: August 5, 2003
Attorney Docket No. 678-1026 (P10430)

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 30, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration 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.

This application was held abandoned for failure to reply to the non-final Office action mailed November 14, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 19, 2006.

Petitioner asserts that the Office action mailed November 14, 2005 was never received. In support, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had the Notice been received.

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 Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner

stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office 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.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

Petitioner's evidence has been considered but deemed as unpersuasive. A review of the record shows the non-final Office action was mailed to the correspondence address of record. The correspondence address of record continues to be the following:

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

A review of the petition shows that the address provided on the petition differs from the correspondence address of record. The petition address is listed as follows:

Farrell Law Firm, P.C.
333 Earle Ovington Boulevard
Suite 701
Uniondale, NY 11553.

As such the record is not clear that the non-final Office action was not received due to a failure to change the correspondence address of record. The address differs enough that it is conceivable that correspondence addressed with the correspondence address of record would not be delivered. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP

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[1] 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).

711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

It is further noted that this application has been abandoned for over one year from the mailing of the Notice of Abandonment. Since the Notice of Abandonment was mailed on June 19, 2006, petitioner should explain the delay in submitting a petition.

A revocation of Power of Attorney with a New Power of Attorney was filed on February 23, 2007. However, the new Power of Attorney will not be entered because applicant has failed to provide a statement under 37 CFR 3.73(b) as required. 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.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By 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

cc: Farrell Law Firm, P.C.
333 Earle Ovington Boulevard
Suite 701
Uniondale, NY 11553.

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

THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Wan-Ick Attn :
Application No. 10/634,451 : ON PETITION
Filed: August 5, 2003 :
Attorney Dkt. No. 678-1026 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a response to the non-final Office Action which was mailed on October 14, 2005. The non-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 February 15, 2006. A Notice of Abandonment was mailed on June 19, 2006. A petition filed under 37 CFR 1.181 was dismissed on September 17, 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) .

As to item (1), an improper Request for Continued Examination (RCE) has been submitted with the petition to revive. It is noted an RCE is not a proper reply to a non-final Office Action because prosecution in the application is not closed. See 37 CFR 1.114(a). Further review confirms that an amendment was not included with the RCE. Instead, petitioner has only provided an IDS, which in this instance is not a proper reply.

Petitioner is reminded 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. Any future petition should take into consideration whether the record shows what may be considered intentional delay.

For petitioner's convenience a copy of the November 14, 2005 non-final Office action is being included.

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 matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

enclosure

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.
10/634,451	08/05/2003	Won-Ick Ahn	678-1026 (P10430)	6711

28249 7590 11/14/2005

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

EXAMINER	
ALPHONSE, FRITZ	

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 11/14/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/634,451	AHN, WON-ICK	
	Examiner	Art Unit	
	Fritz Alphonse	2133	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenney (U.S. Pat. No. 6,741,665).

As to claim 1, Kenney (figs. 2-5) discloses a frequency error detector and combiner using a diversity operation at a reception end of a mobile communication system, including: a plurality of fingers (see fig. 4; fingers 12, 14, 16; col. 3, lines 30-39) each having a diversity combiner (9) for diversity-combining reference symbols used for frequency error detection (col.3, lines 62 through col. 4 line 25), and having a frequency error detector (i.e., frequency detector 5 per finger; see figure 3) for combining output signals of the diversity combiner to generate a frequency offset value; and a frequency error combiner (9) for performing a multipath diversity combination on output signals of each frequency error detector (col.3, lines 62 through col. 4 line 25).

As to claim 2, Kenney discloses a frequency error detector and combiner, wherein the diversity combiner uses a complex number combination (col. 4, lines 35-47).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

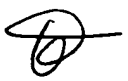
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3824.

Information regarding the status of an application may also 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).

Fritz Alphonse

Art Unit 2133

October 28, 2005



GUY LAMARRE
PRIMARY EXAMINER

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

THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553

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AUG 0 4 2008

In re Application of :
Won-ick. :
Application No. 10/634,451 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 678-1026 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of November 14, 2005. The non-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 February 15, 2006. A Notice of Abandonment was mailed on June 19, 2006. A petition filed under 37 CFR 1.181 was dismissed on September 17, 2007. A petition filed under 37 CFR 1.137(b) was dismissed on March 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2133 for appropriate action by the Examiner in the normal course of business on the reply received

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

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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Won-Ick Ahn	: DECISION ON REQUEST FOR
Patent Number	: 7584410	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/634,451	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1528** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHUGHART THOMSON & KILROY, PC
120 WEST 12TH STREET
KANSAS CITY, MO 64105

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NOV 03 2004

OFFICE OF PETITIONS

In re Application of :
William J. Baker :
Application No. 10/634,457 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. GYAP.97745 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 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 non-final Office action mailed December 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2004.

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

This matter is being referred to Technology Center AU 2837.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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120 WEST 12TH STREET
KANSAS CITY, MO 64105

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
William J. Baker :
Application No. 10/634,457 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. GYAP.97745 :

This is a decision on the petition, filed July 7, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee. This is also being treated under 37 CFR 1.27(c) seeking status as a small entity.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The assertion claiming small entity status of July 7, 2005 has been made of record and accorded.

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 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

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Date : July 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : William J. Baker
Application No. : 10/634,457
Filed : August 5, 2003

The above-identified application has been assigned Patent No. 6,920,962 and an issue date of July 26, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 26, 2005:

"All reference to Patent No. 6,920,962 to William J. Baker of St. Joseph, MO for COORDINATED LIFT SYSTEM appearing in the Official Gazette of July 26, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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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
10/634,459	08/04/2003	2611	786	14813US02	19	22	3

CONFIRMATION NO. 6729

CORRECTED FILING RECEIPT

OC000000011863564

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 02/09/2004

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)

Patrick Law, Milpitas, CA;
Darren Neuman, Palo Alto, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/289,078 11/06/2002
and claims benefit of 60/452,571 03/05/2003

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2003

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for converting interlaced formatted video to progressive scan video

Preliminary Class

725

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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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MAR 11 2004

OFFICE OF PETITIONS

In re Application of
Todd Peavey et al.
Application No. 10/634,475
Filed: August 4, 2003
Attorney's Docket No. 760-137 CON

ON PETITION

This is a decision on the petition filed January 2, 2004 under 37 CFR 1.53, in response to the "Notice to File Missing Parts" mailed November 3, 2003.

The petition is **DISMISSED**.

The application was filed August 4, 2003. However, on November 11, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date of August 4, 2003, and advising applicants that Figures 2E & 2D described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that no figures were missing on August 4, 2003. Instead, the application papers (specifically page 2 of 3) submitted, included two figures described in the specification as figures 2D and 2E but which failed to be so labeled. Petitioner explains that during production, the label identifying the bottom figures (2D & 2E) was mistakenly cropped. Additionally, petitioner's submission of an itemized post card receipt is acknowledged but is not considered as persuasive. The postcard indicates that three (3) sheets of drawings with a total of three (3) figures was included with the papers filed on August 4, 2003. However, the postcard did not properly itemize the figures. For an example, page 2 of 3, the sheet in issue, contained six figures (2, 2A, 2B, 2C, 2D & 2E).

It is obvious from the petition however, that no figures were actually missing on August 4, 2003. Rather, the figures were mislabeled and as a result of the applicants' filing error, failed to identify two of the figures on sheet 2 of 3 as 2D & 2E. However, the "Notice" mailed on November 11, 2003, was correct in stating that Figures 2D & 2E described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

The Office of Initial Patent Examination will be notified to process the application with the filing date of August 4, 2003 and to use the application papers filed on that date and the corrected page 2 of 3 filed on January 2, 2004 with the petition.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

In re Application of
Darrell Anderson et al.
Application No. 10/634,501
Filed: August 5, 2003
Attorney Docket No.: **Google-54 (GP-064-06-US)**

ON PETITION

This is a decision on the petition filed May 20, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on November 30, 2006 and a Notice of Abandonment was mailed May 7, 2008 for the applicant's failure to file a proper reply to the non-Final Office Action mailed February 10, 2006.

Petitioner asserts that a response was timely filed to the February 10, 2006 and provides copies of the response filed August 14, 2006 (August 10, 2006 certificate of mail) with a three month extension of time as well as the postcard receipt as proof of filing.

A review of the record confirms that the response and three month extension of time were in fact filed August 14, 2006 with an August 10, 2006 certificate of mail, however as also noted by the petitioner, on November 30, 2006 correspondence was mailed by the USPTO which indicated that the reply filed on August 10, 2006 (received on August 14, 2006) was not fully responsive. The notice set a thirty day period for response.

The application actually became abandoned for failure to file a response to the October 30, 2006 communication from the USPTO.

While no response was filed to the October 30, 2006 within 30 days or November 30, 2006, after the fact in a telephonic interview held February 9, 2007, an agreement was reached between the Examiner and the parties that the October 30, 2006 was to be withdrawn. The Interview Summary is of record but the Office Action was not withdrawn prior to the abandonment of the application. However, in view of the Examiner having agreed to withdraw the October 30, 2006 office action, the abandonment is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2164 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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)
6930433	2005-08-16	10634511	2003-08-04	APE-2.002.CIP.2

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	/Paul J. Fordenbacher/	Date (YYYY-MM-DD)	2009-10-16
Name	Paul J. Fordenbacher	Registration Number	42546

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

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

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

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

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

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

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

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6930433
Issue Date: August 16,2005
Application No. 10634511
Filed: August 4,2003
Attorney Docket No. APE-2.002.CIP.2

:

: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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United States Patent and Trademark Office
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Gene Scott
Patent Law & Venture Group
3140 Red Hill Avenue
Suite 150
Costa Mesa, CA 92626-3440

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AUG 0 7 2006

OFFICE OF PETITIONS

In re Application of :
GOJNY :
Application No.: 10/634,515 :
Filed: August 4, 2003 :
Attorney Docket No.: GOJNY.F-10 :

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 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 non-final Office action mailed September 22, 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 and a reply was not filed. Accordingly, by operation of law, the above-identified application became abandoned on December 23, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee and (3) the required statement of unintentional delay have been received.

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.

Accordingly, the reply to the non-final Office action of September 22, 2004 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3711.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/05

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,879,798

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 3-915
Palm location 7580 - Tel. No. 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 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: –

Sun Lee for
SPE

2852
Art Unit

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Paper No.

LAW OFFICES OF ALBERT WAI-KIT
CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Bihua Liu	:	
Application No. 10/634,526	:	ON APPLICATION FOR
Filed: August 5, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1365-US	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed on January 30, 2009. Applicant requests that the determination of patent term adjustment be corrected from seventeen (17) days to one thousand eighty-eight (1088) days. Applicant requests this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED SIXTY (460) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed,

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date with regards to that request. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even

where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined.

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **granted to the extent indicated**.

On January 14, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was seventeen (17) days. The period of adjustment was 468 days of PTO delay and 451 days of applicant delay.

On January 30, 2009, the subject application for patent term adjustment was timely filed.[1]

[1] Office records indicate that the issue fee was paid on February 27, 2009.

Applicant requests removal of the period of reduction of 451 Days under 37 CFR 1.704(c)(8) for the filing of an information disclosure statement (IDS) on January 9, 2009, after the filing of a reply to a non-final office action. Applicant asserts that no IDS was filed on January 9, 2009.

A review of Office records confirms that no IDS was filed on January 9, 2009. No paper was filed in this application on January 9, 2009. Accordingly, entry of a period of reduction of 451 days is not warranted, and will be removed.

Applicant asserts that a period of reduction of eight (8) days should be entered for the filing of a supplemental reply on October 24, 2007, eight (8) days after the filing of a reply, on October 16, 2007, to the office action mailed on July 16, 2007.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: 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.

Accordingly, entry of a period of reduction of eight (8) days is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is four hundred sixty (460) days (468 days of office delay reduced by eight (8) days of applicant delay).

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Friday
Date: 6/26/2009

PALM INTRANET

Time: 18:08:36

PTA Calculations for Application: 10/634526			
Application Filing Date:	08/05/2003	PTO Delay (PTO):	468
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	451
Post-Issue Petitions:	0	Total PTA (days):	460
PTO Delay Adjustment:	443		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		8	
67	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	451		
57	01/14/2009	MAIL NOTICE OF ALLOWANCE	333		38
56	01/09/2009	REFERENCE CAPTURE ON IDS			
55	01/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		451	38
54	01/14/2009	ISSUE REVISION COMPLETED			
53	01/14/2009	DOCUMENT VERIFICATION			
52	01/19/2008	ISSUE REVISION COMPLETED			
51	01/14/2009	DOCUMENT VERIFICATION			
50	01/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	10/24/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
48	10/22/2008	CORRESPONDENCE ADDRESS CHANGE			
47	07/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
46	06/20/2008	NOTICE OF ALLOWABILITY			
41	11/04/2007	DATE FORWARDED TO EXAMINER			
40	10/24/2007	SUPPLEMENTAL RESPONSE			
39	10/27/2007	DATE FORWARDED TO EXAMINER			
38	10/16/2007	RESPONSE AFTER NON-FINAL ACTION			
37	10/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
36	10/17/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
35	10/15/2007	CORRESPONDENCE ADDRESS CHANGE			
34	10/10/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

33	07/16/2007	MAIL NON-FINAL REJECTION			
32	07/03/2007	NON-FINAL REJECTION			
31	06/20/2007	DATE FORWARDED TO EXAMINER			
30	06/20/2007	WITHDRAWAL OF NOTICE OF ALLOWANCE			
29	11/13/2006	MISCELLANEOUS INCOMING LETTER			
28	11/07/2006	MISCELLANEOUS INCOMING LETTER			
27	09/19/2005	FINISHED INITIAL DATA CAPTURE			
26	09/16/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
25	09/08/2005	ISSUE FEE PAYMENT VERIFIED			
24	09/08/2005	ISSUE FEE PAYMENT RECEIVED			
23	06/22/2005	EXPORT TO INITIAL DATA CAPTURE			
22	06/17/2005	MAIL NOTICE OF ALLOWANCE			
21	06/17/2005	MAIL EXAMINER'S AMENDMENT			
20	06/15/2005	ISSUE REVISION COMPLETED			
19	06/15/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
18	06/13/2005	EXAMINER'S AMENDMENT COMMUNICATION			
17	06/13/2005	NOTICE OF ALLOWABILITY			
16	05/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/24/2005	DATE FORWARDED TO EXAMINER			
14	05/16/2005	RESPONSE AFTER NON-FINAL ACTION			
13	05/24/2005	CORRESPONDENCE ADDRESS CHANGE			
12	02/17/2005	MAIL NON-FINAL REJECTION	135		-1
11	02/16/2005	NON-FINAL REJECTION			
10	10/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	10/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	07/06/2004	MISCELLANEOUS INCOMING LETTER			
7	09/13/2004	APPLICATION RETURN FROM OIPE			
6	09/13/2004	APPLICATION RETURN TO OIPE			
5	09/13/2004	APPLICATION DISPATCHED FROM OIPE			
4	09/14/2004	APPLICATION IS NOW COMPLETE			
3	10/22/2003	CLEARED BY OIPE CSR			
2	10/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/05/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

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Paper No.

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141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED

APR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,572,126	:	DECISION ON REQUEST
Bihua Liu	:	FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Application No. 10/634,526	:	PATENT TERM ADJUSTMENT
Filed: August 5, 2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
1365-US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 21, 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 thirty-eight (1438) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand two hundred twenty-nine (1229) 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 two hundred twenty-nine (1229) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on August 6, 2006, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on August 11, 2009, the date the application issued as a patent, or 1102 days. See, 35 U.S.C.

154(b)(1)(C)(iii). The 333 days between February 17, 2008, the day after the date four months after the date a response to an Office action was filed, and January 14, 2009, the date the notice of allowance was mailed, and the 45 days between June 28, 2009, the day after the date four months after the date the issue fee was paid, and August 11, 2009, the date the application issued as a patent, overlap with the 1102 days.

Thus, the non-overlapping period is 724 (1102 - 333 - 45) days. It is further noted that a period of 589 days of over three years delay was entered at issuance of the patent. Therefore, the total "B" adjustment now due is 135 (724 - 589) days.

Patentee further asserts that a 1311 day period of adjustment for Office delay should be entered pursuant to 37 CFR 1.702(a)(4) for failure of the Office to issue the patent within four (4) months of applicant's payment of the issue fee on September 8, 2005.

Patentee's argument is not persuasive. As noted in the *Federal Register*, Section 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv). Section 1.703(a)(6) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued. The date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied. **If prosecution in an application is reopened after allowance (see MPEP 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP 1308).**[1]

On September 8, 2005, the issue fee was paid. On June 20, 2007, however, a Notice of Withdrawal from Issue 37 CFR 1.313 was mailed, indicating that the application is withdrawn from issue to permit reopening of prosecution. On July 16, 2007, an Office action was mailed stating that the allowability of claims 16-25 is withdrawn in view of newly discovered references. As such, the showing of record is that prior to issuance of the patent, the claims were found not to be allowable. Accordingly, the

[1] See 65 Fed. Reg. 56366, at 56369 (Sep. 18, 2000).

showing of record is that not all outstanding requirements were satisfied pursuant to 37 CFR 1.703(a)(6). Therefore, no adjustment is due in connection with the payment of the issue fee on September 8, 2005.

Pursuant to 35 U.S.C. 154(b)(1)(A)(iv), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Patentee further asserts that the 120 day period of reduction for the filing of a miscellaneous incoming paper on January 30, 2009, should be removed. Upon review, the paper filed on January 30, 2009, was the initial petition for review of the PTA. As a petition for review of PTA is not considered a failure to engage in reasonable efforts to conclude processing or examination, the 120 day period of reduction is not warranted and will be removed.

The patent term adjustment will be corrected to 1229 (513 (135 + 333 + 45) days of Office delay + 724 (1102 - 378 overlap) days of over three years delay - 8 days of applicant delay) 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. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty-nine **(1229)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,572,126 B2

DATED : **August 11, 2009** **DRAFT**

INVENTOR(S) : Liu

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 974 days.

Delete the phrase "by 974 days" and insert – by 1229 days--

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FEB 27 2006

OFFICE OF PETITIONS

KAPLAN GILMAN GIBSON & DERNIER
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

In re Application of :
John C. Woodard et al :
Application No. 10/634,538 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. DUMMER4.1C1C1 :

This is a decision on the petition, filed February 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 December 29, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3762 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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C/O COOPER & DUNHAM LLP
1185 AVE. OF THE AMERICAS
NEW YORK, NY 10036

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NOV 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Yoshifumi Noge et al :
Application No. 10/634,551 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 69806 CCD :

This is a decision on the petition, filed October 9, 2007, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application, petition under 37 CFR 1.137(a) to revive the application unavoidable and petition under 37 CFR 1.137(b) to revive the application unintentional.

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

This application was held abandoned for failure to timely pay the issue and publication fees on or before August 31, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed May 31, 2007. A Notice of Abandonment was mailed September 26, 2007.

In the present petition, petitioner request that the Office withdraw the holding of abandonment due to the application was withdrawn from issue before the issue fee period expired. Specifically, petitioner states "this is a petition to withdraw the holding of abandonment because the application was withdrawn from issue before the period originally set for payment of the issue and publication fees expired, and no new period for payment of such fees has been set; hence, there has been no failure to make timely payment of the issue and publication fees, and therefore the application has not become abandoned."

The Notice of Allowance mailed May 31, 2007 gave applicant three (3) months to reply. Office record does not show a petition to withdraw from issue was ever received. Since the issue and publication fees were not paid before the August 31, 2007 due date, this application became abandoned for failure to pay these fees. Therefore, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is dismissed.

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

Petitioner states "In the alternative, if it is deemed that the application was not withdrawn from issue, this is a petition to revive the above-identified application because the delay (in payment of the issue and publication fees) that caused the abandonment was unavoidable."

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(d). The instant petition lacks item (1).

Petitioner must provide evidence necessary to establish unavoidable delay. Petitioner states " Mr. Teng was prepared to pay the issue and publication fees on August 31, 2007 and had form PTOL-85B completed for his signature and had obtained a check for the fees (see EXHIBIT 1 attached hereto), when he received a telephone call from the examiner in which the Examiner advised him that the application was being withdrawn from issue for preparation of a new Office Action based on previously unconsidered art, and that the issue fee need not be paid."

Unfortunately, this information is incorrect. The issue fee must be paid within three months of the Notice of Allowance or the application will become abandon for failure to pay the issue and publication fees. Petitioner is directed to See 37 CFR 1.2 which states "All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." Therefore, the petition under 37 CFR 1.137(a) is dismissed.

The petition under 37 CFR 1.137(b) 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 payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

As authorized, the $1540 petition fee is being applied to petitioner's deposit account number.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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CHICAGO, IL 60606

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Eli Cohen et al	:	
Application No. 10/634,553	:	ON PETITION
Filed: August 5, 2003	:	
Attorney Docket No. 29452/39269	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 31, 2006, 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 February 1, 2007.

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

This matter is being referred to Technology Center AU 1657 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/634,557	08/06/2003	1725	1378	2003B078		43	4

CONFIRMATION NO. 6031

CORRECTED FILING RECEIPT

OC000000014764123

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Date Mailed: 12/15/2004

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)

Marcel J.G. Janssen, Kessel Lo, BELGIUM;

Power of Attorney:

Charles Leahy--26293
Keith Bell--30023
Tom Pruitt--30317
John Ingman--30853
Carl Fick--33383
Jaimes Sher--34726
Catherine Bell--35444
Andrew Griffis--36336
Ronald Kilponen--37656
Frank Reid--37918

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/634,557

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Molecular sieve catalyst compositions, their production and use in conversion processes

Preliminary Class

502

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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OFFICE OF PETITIONS

In re Application of :
Michael J. BRITTON, et al :
Application No. 10/634,561 : DECISION ON PETITION
Filed: August 5, 2006 :
Attorney Docket No. CM05023H :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 22, 2007, which set a shortened statutory period for reply of A 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 23, 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) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received March 31, 2008.

April Wise
Petitions Examiner
Office of Petitions

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Gervasi et al. :
Application No.: 10/634570 : ON PETITION
Filing or 371(c) Date: 08/05/2003 :
Attorney Docket Number: :
66182-9020-02 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 1, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed June 28, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 29, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and Amendment in response to the Office action. Accordingly, the petition is granted.

Regarding the extension of time request and fee, Applicant is advised that no extensions of time are available after the reply period has expired and the application has become abandoned. Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Director for Patents, Washington, DC, 20231. A copy of this decision should accompany petitioner's request.

This application is being referred to Technology Center Art Unit 1772 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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George W. Rauchfuss, Jr.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square
Tenth Floor
Stamford, CT 06901-2682

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Sachiko Liebergesell :
Application No. 10/634,590 :
Filed: August 5, 2003 :
Attorney Docket No. SON-1963/DIV2 :

DECISION GRANTING PETITION

This is a decision on the petition filed April 12, 2005, requesting that the above-identified application be accorded a filing date of August 5, 2003, with three sheets of drawings as part of the original disclosure.

The petition is **granted**.

On August 5, 2003, the above-identified application was filed. On March 21, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because drawings were not found with the original application papers, but were believed to be required in order to accord the application a filing date. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on April 12, 2005, applicants filed the present petition, a copy of the three sheets of drawings, and a postcard receipt date-stamped by the Office acknowledging having received three sheets of drawings on August 5, 2003, among other items.

Upon review of the record, the three sheets of drawings were located among the application papers. The drawings were apparently overlooked by the Office of Initial Patent Examination. Therefore, the application, including the three sheets of drawings was complete on filing and entitled a filing date of August 5, 2003. The petition fee of $400.00 will be refunded, in due course.

The application file will be directed to the Office of Initial Patent Examination for further processing with a filing date of August 5, 2003, using the three sheets of drawings filed on that date. 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 (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Patrick J.S. Inouye
810 3rd Avenue
Suite 258
Seattle, WA 98104

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Alexander Franz et al.
Application No. 10/634,616
Filed: August 4, 2003
For: SYSTEM AND METHOD FOR IDENTIFYING LANGUAGE ATTRIBUTES THROUGH PROBABILISTIC ANALYSIS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 28,2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal 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: Kulpreet Rana
GOOGLE INC.
1600 Amphitheatre Parkway
Bldg. 41
Mountain View, CA 94043

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Patrick M. Dwyer
1818 Westlake Avenue N, Suite 114
Seattle WA 98109

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of :
Robertson :
Application No. 10/634,627 : DECISION ON PETITION
Filed: August 5, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ROBERT.P002D1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 30, 2005, 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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. 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 nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230. 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 3625 for appropriate action on the amendment filed December 30, 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 application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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NOV 17 2007

TECHNOLOGY CENTER 3600

Patrick M. Dwyer
Patrick M. Dwyer, PC
Box 322
14419 Greenwood Avenue N
Seattle WA 98133

In re Application of: Steven C. Robertson	:	**PETITION TO INVOKE**
Application No.: 10/634,627	:	**SUPERVISORY AUTHORITY**
Filed: August 5, 2003	:	**UNDER**
Attorney Docket No.: ROBERT.P00D1	:	**37 C.F.R. 1.181**
For: SYSTEM AND METHOD FOR PROVIDING ELECTRONIC MULTI-MERCHANT GIFT REGISTRY SERVICES OVER A DISTRIBUTED NETWORK	:	

This is in response to applicant's petition filed on August 16, 2007 to set aside every part of the rejections made final in the Office action mailed January 31, 2007 that are based upon improper use of official notice.

The petition is **DISMISSED**.

The petition is dismissed as being directed to an appealable matter rather than a petitionable matter. The refusal to grant claims because the subject matter as claimed is considered unpatentable is called a "rejection". In the instant case, the Examiner has refused to grant claims based upon a rejection of claims 29-37 and 39-47 under 35 USC 103 and in view of Official notice. Rejections involving the merits of the claim are subject to review by the Board of Patent Appeals and Interferences and will therefore not be reviewed by the Director. MPEP 706.01.

Subsequent to the filing of this petition, Applicant has filed an Appeal Brief on August 23, 2007. A Notification of Non-Compliant Appeal Brief has been mailed September 12, 2007. A "Revised Brief of Appellant" has been filed October 15, 2007. A communication in response to the Revised Brief will follow in due course.

Any questions concerning this decision should be directed to Jeffrey A. Smith at (571) 272-6763.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

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FEB 19 2008

TECHNOLOGY CENTER 3600

Patrick M. Dwyer
Patrick M. Dwyer, PC
Box 322
14419 Greenwood Avenue N
Seattle WA 98133

In re Application of:
Steven C. Robertson

Application No.: 10/634,627
Filed: August 5, 2003
Attorney Docket No.: ROBERT.P00D1

For: SYSTEM AND METHOD FOR PROVIDING ELECTRONIC MULTI-MERCHANT GIFT REGISTRY SERVICES OVER A DISTRIBUTED NETWORK

PETITION TO RECONSIDER PETITION UNDER 37 C.F.R. 1.181

This decision is in response to Appellant's petition filed on December 26, 2007 requesting reconsideration of the petition under 37 CFR 1.181 filed August 16, 2007. The August 16, 2007 petition sought to set aside every part of the rejections made final in the Office action mailed January 31, 2007 that are based upon improper use of official notice.

The petition is **DENIED**.

Discussion

Consideration has been given to Petitioner's comments filed August 16, 2007, as well as to Petitioner's comments filed December 26, 2007.

Both petitions seek for the Director to set aside every part of the rejections that are based upon the improper use of Official Notice. This proposed remedy is offered at page 4 of the August 16, 2007 petition, and again at page 2 of the December 26, 2007 petition.

The setting-aside of rejections by petition is not an available remedy to a procedural impropriety of the type alleged by Petitioner. The setting-aside of the rejections as "the only remedy" here would not serve to cure any alleged procedural deficiency. Rather, the setting-aside of the rejections here would serve merely to remove the rejections from consideration on their merits by the Board of Patent Appeals and Interferences.

The rejections are properly before the Board of Patent Appeals and Interferences because the Examiner has refused to grant claims based upon a determination by the Examiner that claims 29-37 and 39-47 are obvious under 35 USC 103. Rejections involving the merits of the claim are subject to review by the Board of Patent Appeals and Interferences and will, therefore, not be reviewed by the Director. MPEP 706.01.

Subsequent to the filing of this petition, Applicant has filed a "Reply to Examiner's Answer" on January 28, 2008. A communication in response to the "Reply to Examiner's Answer" will follow in due course.

Any questions concerning this decision should be directed to Jeffrey A. Smith at (571) 272-6763.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/jas: 02/01/2008
SM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,627	08/05/2003	Steven C. Robertson	ROBERT.P00D1	7205

7590 08/27/2008

Patrick M. Dwyer PC
Box 322
14419 Greenwood Ave N
Seattle, WA 98133

EXAMINER	
ROSEN, NICHOLAS D	
ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
08/27/2008	PAPER

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

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

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Seattle WA 98133

FROM DIRECTOR'S OFFICE

AUG 26 2008

TECHNOLOGY CENTER 3600

In re Application of:
Steven C. Robertson
Application No.: 10/634,627
Filed: August 5, 2003
Attorney Docket No.: ROBERT.P00D1

For: SYSTEM AND METHOD FOR PROVIDING ELECTRONIC MULTI-MERCHANT GIFT REGISTRY SERVICES OVER A DISTRIBUTED NETWORK

DECISON ON PETITION TO INVOKE SUPERVISORY AUTHORITY

UNDER

37 C.F.R. 1.181

This decision is in response to Appellant's "Request for Reconsideration of Petition under 37 CFR 1.181" filed on April 24, 2008. Such "Request" requests reconsideration of the original petition under 37 CFR 1.181 filed August 16, 2007 in order to "obtain from the Director his specific ruling as to whether the use of 'official notice' in this case is in compliance with the rules of the MPEP or not" and to "apply such remedy as the Director thinks appropriate in this situation where an Examiner has committed procedural impropriety in the examination".

The petition is **DENIED.**

The petition is directed to three main issues:

1) That the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known per MPEP 2144.03(A).

2) That the Examiner has provided no combination of references which can be addressed by Appellant for proper argument against the reconstruction when requested by Applicant to do so.

3) That the Examiner has confused the date to which any officially noticed facts must be taken.

Regarding issue 1

A review of the final Office action mailed January 31, 2007, reveals that the Examiner has repeated several officially noticed items first made in the Office action mailed July 20, 2006. The repeated items are as follows: "running applications on computers is well known" (at pages 2, 11 and 12); "to access online web sites from remote sites [is well known]" (at pages 3, 11 and 12); "to transmit advertising data to the site where the advertising will be posted [is well known]" (at page 7); "for advertising data to comprise sale event data [is well known]" (at page 7); and "to send out notifications (e.g., e-mails) containing advertising [is well known]" (at page 8).

A review of the response filed December 26, 2006 (Appellant's first response to the Examiner's holding of the officially noticed items) reveals that Appellant traversed the reference to Cohen alone, but failed to adequately traverse the Examiner's hypothetical combinations including Cohen and various officially noticed items. Additionally, Applicant demanded that the Examiner produce authority for his holdings of official notice in only one instance (at page 12). In response to this demand, the Examiner produced "InfoGear" as the authority for his statement and modified the statement of the rejection of claim 30 to include "InfoGear". The Examiner indicated in the final Office action that "[t]he common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice, except with regard to claim 30". The actions by the Examiner are procedurally consistent with MPEP 2144.03.

Specifically, however, the petition has only identified two of the repeated items which are alleged to lack instant and unquestionable demonstration as being well-known. These are: "running applications on computers is well known", and "to access online web sites [is well known]". Nothing in the petition specifically points out the supposed procedural errors in the Examiner's action. Moreover, there is nothing in the petition which amounts to a statement as to why the noticed facts are not considered to be common knowledge or well-known in the art. *In re Chevenard*, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943). Accordingly, the petition provides no persuasive

showing that the actions by the Examiner are procedurally inconsistent with MPEP 2144.03.

Regarding issue 2

A review of the final Office action reveals that the Examiner has, upon adequate traversal of any officially noticed facts, provided combinations of references which can be addressed by Applicant. Specifically, the Examiner has made "InfoGear" of-record in the rejection of claim 30 (at page 4). No other officially noticed items were adequately traversed, and accordingly, the rejections based upon previously officially noticed items were additionally taken to be based upon admitted prior art. The actions by the Examiner are procedurally consistent with MPEP 2144.03(C).

Regarding issue 3

A review of the record does not reveal that the Examiner has confused the date to which any officially noticed facts must be taken. It appears that this concern first surfaced in Applicant's response filed December 26, 2006. Here, Applicant states that "Applicant must assume the Examiner means, 'was well known' at the time of the invention" (at page 12). The Examiner references Applicant's assumption (in the final Office action) by stating that "running applications is very well known, and was even in 1999" (at page 15). The Examiner's reference to "1999" is considered to be a clear acknowledgement of Applicant's earliest priority date of May 7, 1999--thereby affirming Applicant's assumption. Moreover, the record provides constructive evidence that the Examiner recognized May 7, 1999 as the date to which any officially noticed facts must be taken inasmuch as the Examiner has relied upon "InfoGear" (having a publication date of March 10, 1998) as his authority for having taken official notice in his statement of the rejection of claim 30.

Summary: The Petition is DENIED

The application remains before the Board of Patent Appeals and Interferences for consideration of the Appeal.

Any questions concerning this decision should be directed to Jeffrey A. Smith at (571) 272-6763.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

jas: 06/13/08

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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
10/634,636	08/04/2003	2818	774	UNTYP020	10	56	2

CONFIRMATION NO. 7199

CORRECTED FILING RECEIPT

OC000000012301867

22434
BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

Date Mailed: 04/07/2004

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)

Darrell Rinerson, Cupertino, CA;
Wayne Kinney, Emmett, ID;
Steven W. Longcor, Mountain View, CA;
Edmond R. Ward, Monte Sereno, CA;
Steve Kuo-Ren Hsia, San Jose, CA;
Christophe J. Chevallier, Palo Alto, CA;

Assignment For Published Patent Application

Unity Semiconductor Corporation, Sunnyvale, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/249,846 05/12/2003
which claims benefit of 60/400,849 08/02/2002
and claims benefit of 60/422,922 10/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2003

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

2-Terminal trapped charge memory device with voltage switchable multi-level resistance

Preliminary Class

365

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 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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SUNNYVALE CA 94085

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Rinerson et al. :
Application No. 10/634,636 : ON PETITION
Filed: August 4, 2003 :
Attorney Docket No. UNTYP020 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 24, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 23, 2005.

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

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

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SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Richard L. Dunn et al :
Application No. 10/634,656 :
Filed: August 5, 2003 :
Attorney Docket No. 1195.323US1

This is in response to the paper filed March 4, 2008 under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the March 4, 2008 request, status as a Small Entity has been removed.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55402

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OCT 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Richard L. Dunn et al :
Application No. 10/634,656 : DECISION ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. 1195.323US1 :

This is a decision on the petition, filed April 16, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner states that a timely reply was mailed via certificate of mailing on February 11, 2008, which included the following papers: Request for Continued Examination (RCE) and fee; Applicant Arguments / Remarks; Information Disclosure Statement; and Request to Reopen Prosecution. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 11, 2008.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3767 for appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRYAN CAVE LLP
211 N. BROADWAY, SUITE 3600
ST. LOUIS, MO 63102-2750

In re Application of
RYCHNOVSKY, et al.
Application No. 10/634,664
Filed: August 5, 2003
Attorney Docket No. 0130541

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2006.

The request is **APPROVED**.

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

The request was signed by Lucinda A. Althauser on behalf of all attorneys of record who are associated with customer No. 49328. All attorneys/agents associated with the Customer Number 49328 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 Robert W. Scott at the address indicated below. There is an outstanding Office action mailed October 31, 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: **STEVEN J. RYCHNOVSKY**
524 E. VICTORIA STREET, #C
SANTA BARBARA,CA 93103

cc: **MIRAVANT MEDICAL TECHNOLOGIES**
C/O STEVEN J. RYCHNOVSKY
7408 HOLLISTER AVENUE
SANTA BARBARA, CA 93117

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/634,664	08/05/2003	Steven J. Rychnovsky	0130541

CONFIRMATION NO. 3817

OC000000021892442

Christopher J. Hayes
BRYAN CAVE LLP
Suite 3600
211 N. Broadway
St. Louis, MO 63102-2750

Date Mailed: 01/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

BRYAN CAVE LLP
211 N. BROADWAY, SUITE 3600
ST. LOUIS, MO 63102-2750

In re Application of :
SCOTT, et al. :
Application No. 10/634,665 : DECISION ON PETITION
Filed: August 5, 2003 : TO WITHDRAW
Attorney Docket No. 0130541 : 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 27, 2006.

The request is **APPROVED**.

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

The request was signed by Lucinda A. Althauser on behalf of all attorneys of record who are associated with customer No. 49328. All attorneys/agents associated with the Customer Number 49328 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 Robert W. Scott at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ROBERT W. SCOTT
6315 CALOIS DRIVE
INDIANAPOLIS, IN 46220

cc: MIRAVANT MEDICAL TECHNOLOGIES
C/O STEVEN J. RYCHNOVSKY
7408 HOLLISTER AVENUE
SANTA BARBARA, CA 93117

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/634,665	08/05/2003	Robert W. Scott	0130541

CONFIRMATION NO. 6357

OC000000021891854

Christopher J. Hayes
BRYAN CAVE LLP
Suite 3600
211 N. Broadway
St. Louis, MO 63102-2750

Date Mailed: 01/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

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APR 15 2010

OFFICE OF PETITIONS

In re Application of :
Wood :
Application No. 10/634,701 :
Filed: August 5, 2003 :
Attorney Docket No. RSW920030050US1 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

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 October 9, 2009. Applicant requests the initial determination of patent term adjustment be corrected from one thousand ninety-five (1,095) days to one thousand one hundred forty (1,140) days.

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

On September 24, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised of a patent term adjustment to date of 1,095 days. In response, applicant timely filed this application for patent term adjustment prior to payment of the issue fee.

Applicant requests the patent term adjustment be corrected to 1,140 days.

Applicant's request is based on an assertion the patent term adjustment should have included an additional 45 days for Office delay under 37 C.F.R. § 1.703(a)(3).

Relevant Background Facts

The Office issued a final Office action on February 9, 2009.

Applicant filed a reply including a Request for Continued Examination and amendment on April 10, 2009.

The Office issued a non-final Office action on June 25, 2009.

The examiner conducted a telephonic interview with Marcia Doubet, Applicant's representative, on August 24, 2009. The interview summary form prepared by the examiner states, with emphasis added,

> Applicant's Representative called and informed Examiner that the Vaschillo reference was not available as a prior art reference due to its filing date. The Examiner agreed that an error had been made and *withdrew* the rejection of 25 June 2009.

The Office issued a Notice of Allowance and a copy of the interview summary form on September 24, 2009. The Notice of Allowance included the examiner's statements of reasons for allowance. The examiner stated,

> Applicant's Representative (Marcia Doubet) noted that the Vachillo reference is not a valid prior art reference.... Therefore, the prior art does not teach the claimed features.... Furthermore, Applicant's arguments presented in the amendment filed 10 April 2009 are persuasive.

Applicant's Arguments

The Statement of Facts filed by applicant states, with emphasis omitted,

> [The June 25, 2009] Non-final Rejection was void *ab initio*, due to reliance therein on a reference that did not qualify under 35 U.S.C. §102 or §103. Accordingly, the Non-Final Rejection was withdrawn/vacated by the Examiner....
>
> Because the Non-Final Rejection mailed on June 25, 2009 was void *ab initio*, the Non-Final Rejection is considered not to have been mailed. Therefore, the appropriate time period for Patent Term Adjustment under §1.703(a)(2) begins on April 10, 2009, when the Amendment was filed and ends on September 25, 2009, when the Notice of Allowance was mailed. As noted above, this time period exceeds the four-month period set out in §1.703(a)(2) by 45 days.

Discussion

Applicant argues the June 25, 2009 Office action improperly relied on a reference that did not qualify under 35 U.S.C. §§ 102 or 103.

35 U.S.C. § 154(b)(1)(A)(ii) indicates an adjustment for Office delay is warranted if the Office fails to "respond to a reply under section 132 ... within 4 months after the date on which the reply was filed." The statute does not indicate the response must be "correct" or "error-free." In other words, the statute does not indicate an increase in patent term adjustment is warranted in the instant case.

37 C.F.R. § 1.703(a)(3) implements the requirement set forth in 35 U.S.C. 154(b)(1)(A)(ii).

Pursuant to 37 C.F.R. § 1.703(a)(3), the period of patent term adjustment includes, with emphasis added,

> 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 in compliance with § 1.113(c) was filed and ending on the date of mailing of either *an action under 35 U.S.C. 132*, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

An increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3) is not warranted for Office delay in responding to the April 10, 2009 reply if:

(1) An Office action issued within four months of applicant filing the April 10, 2009 reply, and
(2) The Office action was an "action under 35 U.S.C. 132."

With respect to requirement (1) above, the June 25, 2009 Office action was clearly mailed within four months of applicant filing the April 10, 2009 reply.

With respect to requirement (2) above, the June 25, 2009 Office action was an "action under 35 U.S.C. 132."

35 U.S.C. 132(a) states,

> Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application....

The June 25, 2009 Office action satisfied the criteria set forth in 35 U.S.C. § 132. The Office action:

(1) Followed examination of the application by the examiner,
(2) Included the rejection of more than one claim,
(3) Notified applicant of the reasons for the rejection of the claims, and
(4) Provided applicant with information and references as may be useful in judging the propriety of continuing prosecution of the application.

Since the June 25, 2009 Office action satisfied all the criteria set forth above, the Office action was an action under 35 U.S.C. § 132.

In view of the prior discussion, an adjustment under 35 U.S.C. § 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(3) for delay in responding to the April 10, 2009 reply is unwarranted.

The patent term adjustment at the time of mailing of the notice of allowance remains 1,095 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicant is reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. §1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to 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 decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Director
Office of Petitions

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

Mail Date: 06/15/2010

Applicant	: Hubert Lemoine	: DECISION ON REQUEST FOR
Patent Number	: 7634410	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/634,744	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1012** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,746	08/06/2003	Sung-Jin Park	45565	7861

1609 7590 07/30/2009

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER	
ALPHONSE, FRITZ	

ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
07/30/2009	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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Wonki K. Park
Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W.
Suite 600
Washington, D.C. 20036-2680

In re Application of:
Sung-Jin PARK, et al.
Application No. 10/634,746
Filed: August 6, 2003
For: TURBO DECODING APPARATUS AND METHOD

DECISION ON PETITION - WITHDRAWING HOLDING OF ABANDONMENT

This is a decision on the petition, filed 14 November 2008, under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed 13 June 2008. A Notice of Abandonment was mailed on 06 October 2008.

A review of the Notice of Allowability and the Examiner's Amendment mailed on 13 June 2008 indicates that applicant was not properly notified regarding the corrections of Figures 1-7 made in the Examiner's Amendment. The form paragraph 6.47 or similar language should have used to inform applicant that the approved drawing corrections must be made by the applicant in order to avoid abandonment of the application.

For the above stated reasons, the petition is **GRANTED**. The holding of abandonment in this application is hereby withdrawn.

The application is being forwarded to the Office of Publication to further processing.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Sung-Jin Park	: DECISION ON REQUEST FOR
Patent Number	: 7584389	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/634,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1560** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ARTHUR J. STEINER
McDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Isao Hasegawa et al :
Application No. 10/634,763 : DECISION GRANTING PETITION
Filed: August 6, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57810-069 :

This is a decision on the petition, filed July 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 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 (703) 305-8680.

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Commissioner for Patents
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STRANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Fukuda, et al.
Application No. 10/634,769
Filed: August 6, 2003
For: PERFORMANCE INFORMATION MONITORING SYSTEM, METHOD AND PROGRAM

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

This is a response to original petition filed May 16, 2005 and Supplemental petition filed June 13, 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.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition and indicated to have been submitted, have not been listed on an attached PTO form 1449 or PTO/SB/08 (or such listing has not reached the file). To ensure proper consideration, a listing of these references should be provided.

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

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

Brian L. Johnson
Special Program Examiner 6/21/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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OFFICE OF PETITIONS

In re Patent of :
Shimase, et al. :
Patent No. 7,027,935 :
Issue Date: April 11, 2006 : Decision on Petition
Application No. 10/634,775 :
Filing Date: August 6, 2003 :
Attorney Docket No. KAS-189 :

This is a decision on the petition under 37 CFR § 1.183, filed May 19, 2006, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

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

While petitioners have submitted a $130.00 processing fee (petitioners called it a petition fee) and a request for a Certificate of Correction along with the required $100.00 fee, it appears that the mistake regarding the assignee's name is typographical in nature. As such, the $130.00 fee will be refunded to petitioners' credit card and the application will be forwarded to Certificate of Correction division to take appropriate action on the Certificate of Correction request.

The file is being forwarded to Certificate of Correction division.

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

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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

2/1/08

In re Application of:
Chaix, Aurelie et al
Serial No. 10/634,780
Filed: Aug. 6, 2003
Docket: P24002
Title: GARMENT HAVING PROTECTION FOR THE BUST

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed Dec. 14, 2005 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Sep. 14, 2005.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Sep. 14, 2005 is hereby withdrawn. The examiner has been instructed to issue an Office action not inconsistent with this decision.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3765 for further consideration of the amendment, filed on Dec. 14, 2005, as if under 37 CFR 1.111. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Frederick R. Schmidt, Director
Technology Center 3700

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NIXON & VANDERHYE, PC
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OFFICE OF PETITIONS

In re Application of :
Yuji Chigusa et al. :
Application No. 10/634,801 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No.: 2018-760 :

This is a decision on the petition filed February 13, 2006 to withdraw the holding of abandonment for the above-identified application or in the alternative to revive the application under the unintentional standard. The petition is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on July 22, 2005, for failure to timely submit a timely response to the Office Action mailed April 27, 2004 and which set a one (1) month period for reply. Accordingly, a Notice of Abandonment was mailed February 1, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response to the restriction requirement and a post card receipt date stamped July 15, 2005 by the USPTO.

A search of the application file and the USPTO records does not reveal receipt of the response, but the evidence submitted corroborates a timely response to the Restriction Requirement filed July 15, 2005.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged. In view thereof, there is no need to treat the petition in the alternative under the unintentional standard.

This matter will be referred to Technology Center 2875 for appropriate action on the response filed July 15, 2005, a copy of which was submitted upon petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
2882 SAND HILL ROAD
SUITE 240
MENLO PARK, CA 94025

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Dirk Preikszas, et al. :
Application No. 10/634,810 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. 861840-999011 :

This is a decision on the petition, filed July 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 1, 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 2881 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

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

Date : July 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Dirk Preikszas, et al.
Application No. : 10/634,810
Filed : August 6, 2003

The above-identified application has been assigned Patent No. 6,924,483 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,924,483 to DIRK PREIKSZAS, ET AL. of GERMANY for PARTICLE-OPTICAL ARRANGEMENTS AND PARTICLE-OPTICAL SYSTEM appearing in the Official Gazette of August 2, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE 8-28-07

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 7182897
10/634,860

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:

OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER

1724

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
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20037

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Toshimizu Tomitsuka et al :
Application No. 10/634,868 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. Q76270

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

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

This matter is being referred to Technology Center AU 2832 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 07-06

Paper No: __

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AUG 0 2 2006

OFFICE OF PETITIONS

SEED INTELLECTUAL
PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of	:	
Habibi, et al.	:	DECISION
Application No.: 10/634,874	:	
Filing Date: 6 August, 2003	:	
Attorney Docket No. B4450014//	:	

This is a decision on the petition filed on 7 JUne, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision 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(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on14 September, 2005, with reply due absent extension of time on or before 14 December, 2005;
-
- the application went abandoned by operation of law after midnight 14 December, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- with the instant petition (with fee), Petitioner filed as a reply an amendment, and made the statement of unintentional delay;
- Petitioner was not Counsel of record at the time the application went abandoned, Petitioner is not in a position to make such a statement as to the nature of the delay;
- Petitioner is aware that such representations are, as are all representations by practitioners and applicants before the Office, susceptible to review for compliance with the duty of candor.

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]

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

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

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

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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 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).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
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 as of this writing that Petitioner has yet to satisfy the "statement/showing" requirement under the regulation, and will require a statement from the applicant(s) or assignee(s) (with certificate under 37 C.F.R. §3.73(b)) in support of the petition .

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

SEED INTELLECTUAL
PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of	:	
Habibi, et al.	:	DECISION
Application No.: 10/634,874	:	
Filing Date: 6 August, 2003	:	
Attorney Docket No. B4450014//	:	

This is a decision on the petition filed on 24 August, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on14 September, 2005, with reply due absent extension of time on or before 14 December, 2005;
-
- the application went abandoned by operation of law after midnight 14 December, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- with the original petition (with fee), Petitioner filed as a reply an amendment, and made the statement of unintentional delay, however, Petitioner was not Counsel of record at the time the application went abandoned, Petitioner was not in a position to make such a statement as to the nature of the delay–as a result the petition was dismissed on 2 August, 2006;
- the instant petition seeks to overcome this deficiency, and, while the certificate under 37 C.F.R. §3.73(b) is unsigned–a deficiency that Petitioner should correct immediately–the Office record reflects the assignment to referenced in the unsigned certificate and the statement of the assignee's officer, Baibak Habibi, is considered as is the transmittal letter of former Counsel forwarding files to present Counsel several months before the date of abandonment–thus making valid present Counsel's 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.[2]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is

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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]

[3] 35 U.S.C. §133 provides:

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

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

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, 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]))

Allegations as to
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 as considered under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations

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[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] 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.

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

(37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 1, 2006

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6,956,176 /Appl.10634901

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:

Changes are accepted in part, newly presented abstract is too long.

SPE

AU 2832
6 FEB 06

Art Unit

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. : 6,956,176

APPLICATION NO.: 10/634,901

ISSUE DATE : October 18, 2005

INVENTOR(S) : Cosmo CASTALDO

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 abstract, section (57), delete lines 1-20 and insert the following words:

--An enclosure is provided which supports a standard receptacle for receiving a standard plug where the plug can be inserted or removed only when there is no power present at the receptacle. The enclosure supports a lever handle which can be positioned to a first position (lever down) which allows the plug to be inserted into or removed from the receptacle and a second position (lever up) which prevents the plug from being inserted into or removed from the receptacle. The enclosure also supports a switch handle which is coupled to a switch within the enclosure, and to the lever handle. The switch handle can position the switch to be "off" to prevent the receptacle from being coupled to a source of power or to be "on" to allow the receptacle to be coupled to a source of power. When the lever handle is in its first position, the switch handle and the switch are locked to their "off" positions. When the lever handle is in its second position, the switch handle and the switch are free to be positioned by a user either to their "off" positions or "on" positions. If the lever handle is moved from its second position to its first position while the switch handle and the switch are in their "on" positions, the switch handle and the switch are automatically moved to their "off" positions to prevent the possibility of having power at the receptacle while the plug can be either inserted or removed.--;

Column 4, line 41, delete the word "lower" and insert the word --upper--;

Column 1, line 38, after the word "cannot", insert the word --be--; and

Column 5, line 1, after the word "plug", insert the word --from--.

249

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

Greenberg Traurig, LLP
200 Park Avenue, New York, New York 10166

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.

JAN 19 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/10/07

TO SPE OF : ART UNIT 1722

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/634908** Patent No.: **7060130**

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: _____

_____

_____

_____

_____

SPE 1722 Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,060,130

DATED : June 13, 2006

INVENTOR(S): Brage Golding, Connie Bednarski-Meinkeand Zhong-ning Dai

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:

Column 16, line 46, "claim 8 wherein" should be –claim 9 wherein–.

Column 16, line 48, "claim 10 wherein" should be -claim 9 wherein-.

Column 16, line 52, "claim 8, 10, and" should be -claims 9, 10, and-.

Column 16, line 56, "claim 9, 11, or 8" should be -claims 9, 10, or 11-.

MAILING ADDRESS OF SENDER (Please do not use customer number

Ian C. McLeod
IAN C. MCLEOD, P.C.
2190 Commons Parkway
Okemos, Michigan 48864

PATENT NO. 7,060,130

No. of additional copies

JAN 19 2007

P15/REV03

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 Jun-06

OSLER, HOSKIN & HARCOURT LLP (BRP)
2100 - 1000 DE LA GAUCHETIERE ST. WEST
MONTREAL QC H3B 4W5
CANADA

COPY MAILED

JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Berthiaume et al.	:	
Application No. 10/634,913	:	DECISION ON PETITION
Filed: 6 August, 2003	:	
Attorney Docket No. 1D58283	:	

This is a decision on the petition filed on 12 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 30 July, 2005, for failure to timely reply to the non-final Office action mailed on 29 April, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 12 December, 2005.

---

[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)).

Petitioners have filed an amendment to the specification and claims as the required reply.

This application is being referred to Technology Center Art Unit 3617 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

2100

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

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

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MAR 1 7 2004

OFFICE OF PETITIONS

In re Application of
Bowtell, et al.
Application No. 10/634,922
Filed: August 6, 2003
Attorney Docket No. Q76877

DECISION GRANTING PETITION

This is a decision on the petition filed January 7, 2004, requesting that the above-identified application retain the presently accorded a filing date of August 6, 2003, with figure 34 as part of the original disclosure.

On August 6, 2003, the above-identified application was filed. On November 7, 2003, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of August 6, 2003, however, figure 34 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply to the requirement to file the omitted item beginning from the mailing date of the Notice.

In response, on January 7, 2004, applicants filed the present petition, a copy of figure 34, and a postcard receipt date-stamped by the Office acknowledging receipt of 86 sheets of drawings, among other items on August 6, 2003.

Upon review of the record, figure 34 as described in the specification was not located among the application papers. It is further noted that the Office date-stamped postcard acknowledged receiving 86 sheets of drawings, although only 85 pages of drawings ending with Figure 33 were found in reviewing the application. The evidence is convincing that the application papers deposited August 6, 2003, included 86 sheets of drawings that included Figure 34 as described in the specification. Therefore, the application, including Figure 34 as described in the specification, was complete on filing and entitled to the presently accorded filing date of August 6, 2003.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 6, 2003, using the 86 sheets of drawings filed August 6, 2003. Deposit account 19-4880 will be refunded $130.00 that was remitted for the instant petition fee.

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 Petitions

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FEB 07 2005

OFFICE OF PETITIONS

THOMAS E. HILL
EMRICH & DITHMAR
SUITE 3000
300 S. WACKER DRIVE
CHICAGO, IL 60606

In re Application of
Richard Gramm
Application No. 10/634,929
Filed: August 5, 2003
Attorney Docket No. 2

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 21, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 30, 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 May 19, 2005 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on December 9, 2004. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

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

This application is being forwarded to Publication Division.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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OCT 0 6 2008

OFFICE OF PETITIONS

In re Application of :
CORTEZ et al. :
Application No. 10/634,935 :
Filed: 08/05/2003 :
Attorney Docket No. 2002-0173 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on October 16, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on January 17, 2008. A Notice of Abandonment was mailed on February 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioners have supplied (1) the required reply in the form of the issue fee; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The $1,440.00 issue fee and the $510.00 petition fee will be charged to the Deposit Account as authorized.

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200. Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 04/21/2010

Applicant	: Dale Koetke	: DECISION ON REQUEST FOR
Patent Number	: 7650403	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/634,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1290** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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Alexandria, Virginia 22313-1450
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 05/18/2010

Applicant : Dale Koetke
Patent Number : 7650403
Issue Date : 01/19/2010
Application No: 10/634,937
Filed : 08/05/2003

: 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 **1374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 04 2004

ADAMS AND REESE LLP
4500 ONE SHELL SQUARE
NEW ORLEANS, LA 70139

In re Application of	:	
Dr. Charles Gordon, et al	:	
Serial No.: 10/634,950	:	DECISION ON PETITION
Filed: August 5, 2003	:	
For: Artificial Functional Spinal Unit **Assemblies**	:	

This is in response to the petition applicant filed on February 12, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060825

DATE : August 25, 2006

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 - 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: Vip Patel **Art Unit** 2861

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. : 6969138

APPLICATION NO. : 10/634971

ISSUE DATE : November 29, 2005

INVENTOR(S) : Kouji Ikeda et al.

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:

Title Page

HCL 8/25/06 OK Item (56), **References Cited**; FOREIGN PATENT DOCUMENTS, insert the following:

--JP	59176055 A	10/1984
JP	04339660 A	11/1992
JP	55090373 A	07/1980
JP	11277744 A	10/1999--

In the Claims:

Column 33

HCL 8/25/06 OK Line 24, Claim 24: delete "application means is a piezoelectric element"

Express Mail Label No. EV 855 009 624 US (8/2/2006) Dated: August 2, 2006

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Gregory A. Stobbs
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

GAS/kk

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MATTINGLY, STANGER, MALUR, & BRUNDIDGE P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

MAR 2 1 2005

Technology Center 2100

In re Application of: Nishikawa et al.
Application No. 10/634,993
Filed: August 6, 2003
For: DATABASE SYSTEM INCLUDING CENTER SERVER AND LOCAL SERVERS

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

This is a response to the petition filed November 12, 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 November 12, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The merely paraphrase one or two paragraphs of each reference (as in the discussion of U.S. Patent No. 5,757,669, **which mentions the title of the invention and paraphrases the one sentence in col. 3)** accompanied by a single statement that the references do not include certain features of the claimed invention. Furthermore, the features indicated as particularly not taught by the references, (i.e., "includes a replication requesting means for requesting the local servers to replicate local databases and a data consolidation means for performing a process for consolidation of replicated local resources") is also not set forth in claims 15 and 18. The 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. The statement that a reference 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 of 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.

3/16/05

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

JC

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

DEC 23 2005

TECHNOLOGY CENTER 2100

In re Application of: Nishikawa, et al.
Application No. 10/634,993
Filed: August 6, 2003
For: DATABASE SYSTEM INCLUDING CENTER SERVER AND LOCAL SERVERS

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

This is a decision on the Request for Reconsideration filed April 15, 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 November 12, 2004 and dismissed on March 21, 2005.

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.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,040	07/31/2003	Hiroshi Tomori	03414C/HG	7263

1933 7590 11/18/2005

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 5TH AVE FL 16
NEW YORK, NY 10001-7708

EXAMINER	
PAVIGLIANITI, ANTHONY JOSEPH	

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 11/18/2005

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Ave., 16th Floor
New York, NY 10001-7708

Date: November 10,2005
Application No. 10/635,040
Filed: July 31, 2003
Subject: **Indoline Derivative and Process for Producing the Same**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed August 05, 2005 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Katsuhiko Fujimoto, Masakazu Wakayama, Motoko Miura and Kazuhiko Shimura.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

3744

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BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
Yoshizawa, et al.
Application No. 10/635,042
Filed: August 5, 2003
Attorney Docket No. 121056-0042
For: CHANNEL SELECTORY VALUE & METHOD OF DRIVING THE SAME, COMPRESSOR WITH THE CHANNEL SELECTOR VALVE, & DEVICE FOR CONTROLLING REFRIGERATING CYCLE

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed November 14, 2003 (certificate of mailing date November 11, 2003), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 3, 2003, insofar as it alleges that page 284 of the specification was omitted upon initial filing. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) 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 application was filed on August 5, 2003. On November 3, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 284 of the specification appeared to have been omitted.

A review of the specification filed on August 5, 2003 reveals that page 182 is present. **The page that is missing is page 42**. The November 3, 2003 Notice is withdrawn with respect to the allegation that page 182 is missing. However, page 42 is missing and the November 3, 2003 Notice should have stated this fact.

Petitioners filed the instant petition in response to the November 3, 2003 Notice. While the allegedly omitted page number of specification has changed (p. 42 instead of p.182), the same evidence applies towards proving page 42 was present upon initial filing.

Petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 5, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 284 pages of specification. A review of the application file reveals that 283 pages are present. Page 42 is missing.

The return postcard constitutes *prima facie* evidence that 284 pages of specification, including page 42, were filed on August 5, 2003. MPEP 503.

Unfortunately, the instant petition cannot be granted until petitioners provide a copy of page 42. The application cannot undergo further processing without a copy of page 42.

The application file will be retained in the Office of Petitions until page 42 is submitted. No petition fee has been charged in connection with this matter.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SUITE 300
ANN ARBOR MI 48104

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OFFICE OF PETITIONS

In re Application of
Yoshizawa, et al.
Application No. 10/635,042
Filed: August 5, 2003
Attorney Docket No. 121056-0042
For: CHANNEL SELECTORY VALUE & METHOD OF DRIVING THE SAME, COMPRESSOR WITH THE CHANNEL SELECTOR VALVE, & DEVICE FOR CONTROLLING REFRIGERATING CYCLE

: DECISION GRANTING
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed February 18, 2004 (certificate of mailing date February 13, 2004), requesting that page 42 of the specification be accorded a filing date of August 5, 2003.

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

The application was filed on August 5, 2003. On November 3, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 182 of the specification appeared to have been omitted.

A review of the specification filed on August 5, 2003 reveals that page 182 is present. The page that is missing is page 42. Petitioners filed a petition on November 14, 2003 (certificate of mailing date November 11, 2003) requesting that the missing page of specification be accorded a filing date of August 5, 2003. Petitioners provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 5, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 284 pages of specification. A review of the application file reveals that 283 pages are present. Page 42 is missing.

The return postcard constitutes *prima facie* evidence that 284 pages of specification, including page 42, were filed on August 5, 2003. MPEP 503.

However, petitioners supplied a copy of page 182, as was required by the November 3, 2003 Notice, with the November 14, 2003 (certificate of mailing date November 11, 2003) petition. The November 14, 2003 (certificate of mailing date November 11, 2003) petition was dismissed on February 5, 2004 because further processing could not take place without a copy of page 42.

Petitioners promptly filed the instant reconsideration petition and submitted a copy of page 42.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 5, 2003, using the copy of page 42 supplied with the instant reconsideration petition.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

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MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,031,865 :
Issue Date: April 18, 2006 :
Application No. 10/635,057 : NOTICE
Filed: August 6, 2003 :
Attorney Docket No. 013469-9001-00 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No.

DELBERT J. BARNARD
BARNARD, LOOP & McCORMACK LLP
P.O. BOX 58888
SEATTLE, WA 98138

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Duke W. Goss :
Application No. 10/635,085 :
Filed: August 5, 2003 : ON PETITION
Attorney Docket No. Goss "F" :

This is a decision on the Petition for Filing Date, filed October 25, 2004, requesting the above-identified application be accorded a filing date of August 5, 2003, including 15 sheets of drawings.

The application was filed on August 5, 2003. On October 14, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had not been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that 15 sheets of drawings were originally filed with the application on August 5, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, inter alia, 15 sheets of drawings in the above-identified application by this Office on August 5, 2003.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, inter alia, 15 sheets of drawings in the above-identified application by this Office on August 5, 2003.

"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.

Accordingly, the petition is granted.

The copy of 15 sheets of drawings, filed with the instant petition on October 25, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 02-0915, as requested in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 5, 2003, and an indication that 15 sheets of drawings were present on filing, using the 15 sheets of drawings filed with the instant petition on October 25, 2004.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Advanced Bionics Corporation
25129 Rye Canyon Road
Valencia, CA 91355

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Zdzislaw B. Malinowski	:	
Application No. 10/635,092	:	DECISION ON PETITION
Filed: August 6, 2003	:	TO WITHDRAW
Attorney Docket No. 05-00535-02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

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

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Vista IP Law Group**
2040 Main Street, 9th Floor
Irvine, CA 92614

cc: **Fish & Richardson P.C.**
225 Franklin Street
Boston, MA 02110

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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
10/635,106	08/05/2003	3714	966	2998-5328.1US	4	32	3

CONFIRMATION NO. 3829

CORRECTED FILING RECEIPT

OC000000011555689

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 12/23/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jerome Turk, Del Mar, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2003

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods and system for interactive lottery game

Preliminary Class

463

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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Trademark Office

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PETITION DECISION

02/27/04

James F. Thompson
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/635112 received on 10/02/03 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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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,372,941	:	ON PETITION
Ivanisevic et al.	:	UNDER 37 CFR 1.183
Issue Date: May 13, 2008	:	and
Application No. 10/635,113	:	ON REQUEST FOR RECONSIDERATION
Filed: August 6, 2003	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No. 09013. 0006-00000	:	

This is a decision on the petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on November 7, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**. The petition fee of $200.00 will be charged to deposit account no. 06-0916.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,941, with a revised patent term adjustment of 494 days. No request for reconsideration of the patent term

adjustment indicated in the patent was filed within two months of the date the patent issued. Patentees now petition under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentees make this request, in view of the situation presented by the recent decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 13, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 7, 2008. Petitioners request that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 13, 2008, the date two months from the date this patent issued, May 13, 2008. Rather, on November 7, 2008, more than one month after the issuance of a decision in Wyeth v. Dudas on September 30, 2008,

petitioners filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Having considered petitioners' arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioners is the situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioners state that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioners implicitly argue that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than one month after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentees had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioners chose not to challenge their revised patent term adjustment within the two-month period. The argument that patentees could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision,

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[2] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

which was entered more than one months after the issuance of their patent, is not compelling. Petitioners could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioners may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioners with respect to the Wyeth decision.

Petitioners simply fail to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioners cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition petitioner's unexplained nearly two-month delay in filing the petition weighs against them. The remaining period to file a civil action does not so distinguish petitioner's situation from any other patentee who failed to meet the two-month deadline for filing a request for reconsideration of patent term adjustment determination such that justice requires waiver.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed November 7, 2008. Therein, patentees request correction of the patent term adjustment (PTA) indicated in the patent to one thousand and five (1005) days.

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,941 with a revised patent term adjustment of 494 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on November 7, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

The request for waiver of 37 CFR 1.705(d) pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

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

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 21, 2009

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635114 Patent No.: 7553325

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: The item 1 change is not approved because it would introduce a typographical error and thus change the claim scope and item 4 would change the scope of the claim. (only items 2, 3, and 5 to 8 are approved for entry)

Paul Prebilic 07-20-2010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 21, 2009

TO SPE OF : ART UNIT 3774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635114 Patent No.: 7553325

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: The item 1 change is not approved because it would introduce a typographical error and thus change the claim scope and item 4 would change the scope of the claim. (only items 2, 3, and 5 to 8 are approved for entry)

Paul Prebilic 07-20-2010

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120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Patent No. 6,940,016 :
Issue Date: September 6, 2005 :
Application No. 10/635,126 : DECISION ON PETITION
Filed: August 6, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 8684/91061 :

This is a decision in response to the petition, filed February 22, 2010, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on May 6, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. 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 Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(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.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting

the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Therefore, the failure to timely notify the Office 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.

Since this application matured into Patent No. 6,940,016 on September 6, 2005, no further action is required.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Patent No. 6950499	: DECISION DISMISSING PETITION
Issue Date: 09/27/2005	: UNDER 37 CFR 1.78(a)(3) AND
Application Number: 10/635132	: REQUEST FOR CERTIFICATE OF
Filing or 371(c) Date: 08/06/2003	: CORRECTION
Attorney Docket Number: AMT-9903C2	:

This is a decision on the petition, filed on February 19, 2010, 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 the nonprovisional applications listed in the petition, by way of a certificate of correction.

The petition is **DISMISSED**.

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 August 6, 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.

The petition must be dismissed because the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. A Certificate of Correction is not a proper reference. Pursuant to 37 CFR 1.78(a)(2)(iii) the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

More to this point, the request to amend the priority data contained on Page 3 of the petition is not a proper amendment as drafted and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(5)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an supplemental Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further, the petition does not include 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.

Receipt of the petition fee and certificate of correction fee is acknowledged. No further fees are due.

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

A reply may also be filed via the USPTO's EFS-Web system.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

cc:

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 SOUTH WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

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P. O. Box 1135
Chicago IL 60690-1135

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OFFICE OF PETITIONS

In re Application of :
Walter Christen :
Application No. 10/635,142 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. 0105940-016 :
Title of Invention: Radio Frequency Shielded and :
Acoustically Insulated Enclosure

This is a decision on the petition under 37 CFR §1.181 filed November 10, 2005 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

The application was held abandoned July 21, 2005 for failure to timely submit a proper reply to the non-final Office Action mailed April 20, 2005. The non-final Office Action set a three (3) month extendable time period for reply. This decision precedes the mailing of a Notice of Abandonment.

Petitioner maintains that a response to the non-final Office Action was mailed and received in the Office on August 22, 2005. A review of Office records shows a communication was received by the Office on August 22, 2005. This communication was matched to the serial number identified in the transmittal letter accompanying the communication, namely, serial No. 10/653,142. The communication did not timely reach the correct application (10/635,142) due to petitioner's error. As a result of this error, the application was held abandoned.

The actual amendment did contain the correct application number, art unit, name of the examiner, attorney docket number, confirmation number filing date and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action,

petitioner has submitted a copy of a stamped post card receipt and a copy of the response which contains a certificate of mailing pursuant to 37 CFR 1.8.

The response to the non-final Office Action and request for one month extension of time has been located in application 10/653,142. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

This application is being forwarded to the Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant

Petition Attorney

Office of Petitions

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Paper No.

Jenell Lawson
Intellectual Property
CuraGen Corporation
555 Long Wharf Drive
New Haven CT 06511

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Mei Zhong, Weizhen Ji, Xiaojia Guo, :
Daniel Rieger, Muralidhara Padigaru: DECISION ACCORDING STATUS
Rachel Malcolm, Kimberly Spytek, : UNDER 37 CFR 1.47(a)
David Anderson, Linda Gorman, :
Elina Catterton, John MacDougall, :
David Stone and Shlomit Edinger :
Application No. 10/635,149 :
Filed: August 6, 2003 :
Attorney Docket No. Cura 893A :
Title: THERAPEUTIC POLYPEPTIDES, :
NUCLEIC ACIDS ENCODING SAME, AND :
METHODS OF USE :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed September 30, 2004.

The petition is **GRANTED**.

The above-identified application was filed on August 6, 2003, without an unexecuted declaration. Mei Zhong, Weizhen Ji, Xiaojia Guo, Daniel Rieger, Muralidhara Padigaru, Rachel Malcolm, Kimberly Spytek, David Anderson, Linda Gorman, Elina Catterton, John MacDougall, David Stone and Shlomit Edinger were named as joint inventors. Accordingly, on May 26, 2004, 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 addition, the Notice required compliance with § 1.821 et seq.). 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 (and fee); the late surcharge; and five declarations executed, in combination, by joint inventors Zhong, Guo, Rieger, Padigaru, Malcolm, Spytek, Anderson, Gorman, Catterton, MacDougall, Stone and Edinger on behalf of themselves and on behalf of non-signing joint inventor Weizhen Ji. This response was made timely by an accompanying petition for extension of time for response within the fifth month (and fee). Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Ji is unavailable within the meaning of § 1.47. Petitioner states that as of the date of filing of the petition, all attempts to contact inventor Ji via US mail and telephone have failed.

By statement of legal specialist Nicole Carlucci, rule 47 applicants have shown diligent efforts to reach inventor Ji and

that she is unavailable to join in the application. In support thereof, rule 47 applicants submitted copies of the cover letter forwarding the application papers to the inventor at her last known address and of the postal service envelopes marked "unclaimed" by the postal service.

The petition includes the last known address of non-signing inventor Ji.

The declaration filed September 30, 2004, and the petition 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 new 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 will be examined in Technology Center AU 1632 in due course.

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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OFFICE OF PETITIONS

In re Application of :
Sommer et al. :
Application No. 10/635,166 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. P-11047.00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2007 and supplemented on October 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 18, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

The person signing the petition requests a change of correspondence address to the address given in the petition. There is, however, 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 documents 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) 272-3215.

This application is being referred to Technology Center AU 3762 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
Petition Attorney
Office of Petitions

Cc: Carol F. Barry
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Patrick D. Lopath et al :
Application No. 10/635,170 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. TRANS 3.0-053 :

This is a decision on the petition, filed January 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 November 7, 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 3739 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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OFFICE OF PETITIONS

In re Application of :
Patrick D. Lopath, et al. :
Application No. 10/635,170 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No.: TRANS 3.0-053 CIP :

This is a decision on the petition, filed May 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The application is being referred to Technology Center AU 3739 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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PERLEGEN SCIENCES, INC.
LEGAL DEPARTMENT
2021 STIERLIN COURT
MOUNTAIN VIEW, CA 94043

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Nila Patil, David R. Cox, Charit :
Pethiyagoda, Andrew Sparks and : DECISION REFUSING STATUS
Huang-Tsu Chen : UNDER 37 CFR 1.47(a)
Application No. 10/635,175 :
Filed: August 6, 2003
For: METHODS FOR ENRICHING
POPULATIONS OF NUCLEIC ACID SAMPLES

This is in response to the "Petition Under 37 CFR 1.47(a),' filed January 10, 2005 (certificate of mailing date: January 7, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 6, 2003 without a fully executed oath or declaration and naming Nila Patil, David R. Cox, Charit Pethiyagoda, Andrew Sparks and Huang-Tsu Chen as joint inventors.

Accordingly, on November 8, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on January 10, 2005 (certificate of mailing date: January 7, 2005), the instant petition was filed.

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), as set forth above.

As to item (1), applicant failed to show or provide proof that the inventor has refused to sign the declaration. Applicant has stated that calls were placed to non-signing inventor Chen's home telephone number. Applicant states a return call and message were made by non-signing inventor Chen but that a return call to non-signing inventor Chen thereafter elicited a response that it was a wrong number. As such, applicant has not shown that an express oral refusal to sign the declaration has been made.

Applicant may wish to send a copy of the application papers to the non-signing inventor at the non-signing inventor's last known address to show that it was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

PERLEGEN SCIENCES, INC.
LEGAL DEPARTMENT
2021 STIERLIN COURT
MOUNTAIN VIEW, CA 94043

In re Application of
Nila Patil, David R. Cox,
Charit Pethiyagoda, Andrew
Sparks and Huang-Tsu Chen
Application No. 10/635,175
Filed: August 6, 2003
For: METHODS FOR ENRICHING
POPULATIONS OF NUCLEIC ACID
SAMPLES

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 CFR 1.47(a) MOOT

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 16, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Huang-Tsu Chen in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/635,177	08/05/2003	3727	786	19277	16	22	1

CONFIRMATION NO. 9257

CORRECTED FILING RECEIPT

OC000000011447931

23556
KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

Date Mailed: 12/09/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Patricia Ann Samolinski, Winneconne, WI;
Kim LaRae Resheski-Wedepohl, Reedsville, WI;
Scott Richard Martin, Appleton, WI;
Shannon Kathleen Melius, Appleton, WI;

Assignment For Published Patent Application

Kimberly-Clark Worldwide, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2003

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Package having an opening mechanism and containing selectively oriented absorbent articles

Preliminary Class

206

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,197	08/06/2003	Daniel P. Gregson	200300458-1	8326

7590 04/09/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
SAFAIPOUR, HOUSHANG	

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/08/2008 KKING1
08/08/2003 AADOF01 00000042 082025 10635197
02 FC:1201 504.00 CR
03 FC:1202 108.00 CR

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052505

ARTHUR W. BIGELOW
15482 LORRAINE WAY
IRVINE, CA 92064

JUN 7 2005

In re Application of:
ARTHUR W. BIGELOW JR.
Serial No.: 10/635,202
Filed: 06 August 2003
Title: MULTI-HOLE PUNCH PAPER ALIGNMENT AND HOLDER DEVICE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on March 7, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

An Office action (Non-Final Rejection) was mailed on April 7, 2004. In the absence of receipt of a response, a Notice of Abandonment was mailed on October 21, 2004.

Petitioner asserts that a Revocation of Power of Attorney and a letter of remarks were timely filed in the Patent and Trademark Office on October 6, 2004.

Review of the application file reveals that the Revocation of Power of Attorney and letter of remarks in response to the April 7, 2004 Office action and the appropriate fee were received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

The Notice of Abandonment mailed October 21, 2004 is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The technical support staff will process the submission, including the Revocation of Power of Attorney, and the examiner will prepare an appropriate action in response to applicant's submission of October 6, 2004.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Howard N. Goldberg, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Alexandria, VA 22313-1450
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052505

ARTHUR W. BIGELOW
15482 LORRAINE WAY
IRVINE, CA 92064

JUN 7 2005

In re Application of:
ARTHUR W. BIGELOW JR.
Serial No.: 10/635,202
Filed: 06 August 2003
Title: MULTI-HOLE PUNCH PAPER ALIGNMENT AND HOLDER DEVICE

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This is a decision on the petition filed on March 7, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

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Petitioner asserts that a Revocation of Power of Attorney and a letter of remarks were timely filed in the Patent and Trademark Office on October 6, 2004.

Review of the application file reveals that the Revocation of Power of Attorney and letter of remarks in response to the April 7, 2004 Office action and the appropriate fee were received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

The Notice of Abandonment mailed October 21, 2004 is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The technical support staff will process the submission, including the Revocation of Power of Attorney, and the examiner will prepare an appropriate action in response to applicant's submission of October 6, 2004.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Howard N. Goldberg, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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TYSONS CORNER VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
LIONG et al.	:	
Application No. 10/635,205	:	DECISION ON PETITION
Filed: 08/05/2003	:	
Attorney Docket No. 059643.00738	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 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 final Office action mailed October 3, 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 4, 2007. A Notice of Abandonment was mailed on June 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE and a submission required by 37 CFR 1.114; (2) the petition fee of $1500.00; and, (3) an appropriate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2154 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

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APR 18 2008

OFFICE OF PETITIONS

In re Application of
Randy John Seeley, et al.
Application No. 10/635,230
Filed: August 6, 2003
Attorney Docket No. UNC04-GN156

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 8, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 6, 2007. A Notice of Abandonment was mailed on December 11, 2007. On January 8, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee and $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of
Chiang, et al.
Application No. 10/635,240
Filed: August 5, 2003
Attorney Docket No. M0925.70138US00

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and the constructive petition under 1.78(a)(6), filed December 18, 2003 (certificate of mailing date December 16, 2003), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The petition fails to comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on December 18, 2003 (certificate of mailing date December 16, 2003). However, the amendment is not acceptable as drafted since it improperly incorporates by reference one of the prior-filed applications. Application no. 60/222,278 was properly incorporated by reference in the instant application on August 5, 2003, which is the application's filing date. However, petitioners seek to incorporate by reference application no. 60/221,278 (emphasis added) in the December 18, 2003 (certificate of mailing date December 16, 2003) amendment.

Petitioners' attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c). Application No. 60/221,278 was **not** incorporated by reference in the present application upon the present application's filing.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement is required.

Regarding finances, petitioners submitted a check for $1,300.00 with the instant petition. The petition fee for filing a petition to accept an unintentionally delayed benefit claim is $1,330.00. Accordingly, deposit account no. 23-2825 was charged the balance owed - $30.00.

---

[1] *Note* 37 CFR 1.121

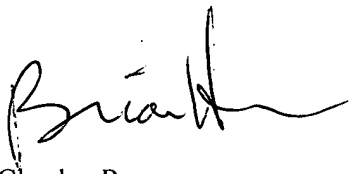
Further correspondence with respect to this matter should be addressed as follows:

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.



Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BOSTON MA 02210-2211

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of
Chiang, et al.
Application No. 10/635,240
Filed: August 5, 2003
Attorney Docket No. M0925.70138US00

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 21, 2005 (certificate of mailing date January 18, 2005), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant application was filed on August 5, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to

the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the instant pending nonprovisional application properly claims priority to nonprovisional application no. 09/174,981, filed October 19, 1998, which was filed within twelve months of provisional application nos. 60/085,109, filed May 12, 1998 and 60/ 062,531, filed October 20, 1997, for which priority is claimed. The instant pending nonprovisional application also claims benefit of nonprovisional application no. 09/827, 806, filed April 6, 2001, which was filed within twelve months of provisional application no. 60/221,278, filed July 27, 2000, for which priority is claimed. A reference to the prior-filed applications 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)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed aplications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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.

Regarding finances, the petition fee has been paid twice. Only one petition fee is necessary. Therefore, pursuant to petitioner's authorization, deposit account no. 23-2825 will be credited the $1,370.00 submitted with the instant reconsideration petition.

Any questions concerning this matter may be directed to Petition Attorney E. Shirene Willis at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 1755 for appropriate action on the amendment submitted January 21, 2005 (certificate of mailing date January 18, 2005), including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/08

Paper No.: —

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635247 Patent No: 6842327 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

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: 9/24/08

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER
SPE

2831
Art Unit

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Donald C. Roe	: DECISION ON REQUEST FOR
Patent Number	: 7615675	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/635,249	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **801** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

COPY MAILED

DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Eric J. HORVITZ et al. :
Application No. 10/635,274 : DECISON ON PETITION
Filed: August 06, 2003 :
Attorney Docket No. :
MS303532.1/MSFTP481US

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 02, 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(b) were obtained. Accordingly, the application became abandoned on June 03, 2006.

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 $1020.00 extension of time fee submitted with the petition on August 28, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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) (3).

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 Tredelle Jackson at (571) 272-2783.

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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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Eric J. HORVITZ et al.	:	
Application No. 10/635,274	:	DECISION ON PETITION
Filed: August 06, 2003	:	
Attorney Docket No. MS303532.1/MSFTP481US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 08, 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, March 02, 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 June 03, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2121 for appropriate action on the amendment filed August 28, 2007.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kris T. Fredrick
Honeywell International, Inc.
101 Columbia Road
Morristown, NJ 07962

COPY MAILED

SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth E. Gall	:	
Application No. 10/635,277	:	ON PETITION
Filed: August 6, 2003	:	
Attorney Docket No. H0004575	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee and publication fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Office
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/635,284	08/05/2003	1731	880	25299	3	20	1

CONFIRMATION NO. 1373

CORRECTED FILING RECEIPT

OC000000013561766

28624
WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P.O. BOX 9777
FEDERAL WAY, WA 98063

Date Mailed: 08/17/2004

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 E. Severeid, Puyallup, WA;
Richard A. Jewell, Tacoma, WA;
Joseph L. Komen, Federal Way, WA;
S. Ananda Weerawarna, Seattle, WA;
Bing Su, Federal Way, WA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2003

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods for making carboxylated pulp fibers

Preliminary Class

162

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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MICHAEL M. RICKIN, ESQ.
ABB INC.
LEGAL DEPARTMENT - 4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092-2530

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Kalyan P. Gokhale et al :
Application No. 10/635,313 : DECISION GRANTING PETITION
Filed: August 6, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. E20020180-D1 :

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 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Benjamin Garden	: DECISION ON REQUEST FOR
Patent Number	: 7625375	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/635,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-7-05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,972,444

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 3-915
Palm location 7580 - Tel. No. 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 appropriate box.

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

Comments:

The changes have been approved.

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2826
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offi

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050705

DATE : July 5, 2005

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction on Patent No.: 6,845,861

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: Gene O. Crawford **Art Unit** 3651

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

Nandu A. Talwalkar
BUCKLEY, MASCHOFF & TALWALKAR LLC
Five Elm Street
New Canaan, CT 06840

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of:
KEIL, et al.
Application No.: 10/635,387
Filed: August 06, 2003
Atty's Docket No.: B01.005/U
Title: SYSTEM TO QUANTIFY CONSUMER PREFERENCES

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-entitled application.

The petition is **DISMISSED** without prejudice.

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)."

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the "Notice To File Missing Parts Of Nonprovisional Application" mailed February 11, 2004, which set a period of reply of two (2) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on April 11, 2004.

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy item (3) above; that is, it fails to include the required statement of unintentional delay. While the petition form submitted by applicants includes the statement "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," this statement is executed by only one of the applicants. This statement must be signed by either all the applicants or by a registered patent attorney or patent agent acting on behalf of all the applicants

(see 37 CFR 1.33(b)). Until a properly executed statement of unintentional delay is submitted, item (3) of a grantable petition cannot be considered satisfied.

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

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

By facsimile: (571) 273-0025
Attn: Office Of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22313

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
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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Nandu A. Talwalkar
BUCKLEY, MASCHOFF & TALWALKAR LLC
Five Elm Street
New Canaan, CT 06840

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of: KEIL, et al.
Application No.: 10/635,387
Filed: August 06, 2003
Atty's Docket No.: B01.005/U
Title: SYSTEM TO QUANTIFY CONSUMER PREFERENCES

DECISION ON RENEWED PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the "Renewed Petition Under 37 CFR 1.137(b)" filed October 06, 2005.

The renewed petition is **GRANTED**.

In a decision mailed herein on September 30, 2005, applicants' original petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable 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 statement of unintentional delay included with the original petition had been signed by only one of the applicants).

The renewed petition filed October 06, 2005 includes the required statement of unintentional delay signed by the attorney of record for all the applicants. Applicants have therefore now satisfied the remaining requirement for a grantable petition for revival under 37 CFR 1.137(b). Accordingly, the reply to the "Notice To File Missing Parts Of Nonprovisional Application" mailed February 11, 2004 (filed by applicants on May 16, 2005 as part of the original petition for revival) is accepted as having been unintentionally delayed.

The application file is being referred to Office Of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 24 2004

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:
Balaji Venkataraman	:
Serial No.: 10/635,428	: PETITION TO MAKE SPECIAL
Filed: August 6, 2003	:
Attorney Docket No.: 52761-0100	:

This is in response to the petition filed September 11, 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

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

Nicolaas van der Blom, President
NVB International a/s
Gaerdet 12
P. O. Box 69
3460 Birkerod DK DENMARK

COPY MAILED

AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Nicolaas van der Blom :
Application No. 10/635,433 : ON PETITION
Filed: August 7, 2003 :
For: Valve Connector :

This is in response to the communication submitted on August 24, 2004, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of August 7, 2003. The matter was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience to applicant.

On August 7, 2003, applicant deposited the above-identified application. On June 24, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application (Notice), stating, *inter alia*, that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings.

In response, on August 24, 2004, applicant submitted, *inter alia*, a copy of the Notice and applicant's returned, date-stamped postcard receipt acknowledging receipt of 15 sheets of drawings in the USPTO on August 7, 2003. Additionally, applicant submitted 15 sheets of drawings and a $130.00 petition fee with the present petition.

Upon review of the record, the 15 sheets of drawings, deposited on August 7, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 7, 2003, included 15 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 15 sheets of drawings, was complete on filing and will be granted a filing date of August 7, 2003.

Accordingly, the petition is granted.

The requirement for drawings set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. In view of the above, the $130.00 petition fee is unnecessary and is refundable. Applicant may request a refund of the $130.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicant's request.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of August 7, 2003,** using the 15 sheets of drawings submitted on August 24, 2004, as part of the original disclosure, and to mail a filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Pet. Dec.

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

WK

Mailed: JUN 18 2004 Paper Number __

In re application of :
James McElroy et al : DECISION ON
Serial No. 10/635,446 : PETITION
Filed: August 07, 2003 :
For: SOLID OXIDE REGENERATIVE FUEL CELL :

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed August 7, 2003, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the Proprietary Information disclosure Statement (PIDS) filed 08/07/2003 be expunged and returned to Applicants. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

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

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

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will

continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

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

Harold C. Wegner
Foley & Lardner
Suite 500
3000 K Street NW
Washington, DC 20007

Pet. Dec.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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4/19/05
~~JUL 22 2004~~

WK

Mailed:
In re application of : Paper Number __
James McElroy et al.y :
Serial No. 10/635,446 : DECISION ON
Filed: August 07, 2003 : PETITION
For: SOLID OXIDE REGENERATIVE FUEL CELL :

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed November 6, 2003, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the Proprietary Information Disclosure Statement (PIDS) filed November 6, 2003 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

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

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

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

10/635,446

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

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

Leon Radomsky
Foley & Lardner LLP
Suite 500
3000 K Street NW
Washington, D.C. 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JJGJr: 09-04

Paper No: __

EDELL, SHAPIRO, FINNAN & LYTLE, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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SEP 30 2004
OFFICE OF PETITIONS

In re Application of	:
Braun	:
Application No. 10/635,448	: DECISION ON PETITION
Filed: 7 August, 2003	:
Attorney Docket No. 0918.0232C	:

This is a decision on the petition, filed 11 August, 2004, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 28 May, 2004. Moreover, Petitioner submitted the instant petition (recission request inherent) on 11 August, 2004, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

(1) the reply--which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 10 February, 2005, previously was mailed.

This application is being released to Technology Center 2800 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request (Previously Mailed)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-10-09

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635454 Patent No.: 6915537

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

/PC/ — **SPE**

3673 — **Art Unit**

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

WENDEROTH LIND & PONACK, LLP
2033 K STREET, NW, SUITE 800
WASHINGTON, DC 20006

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SEP 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Reissue Application of
Oshima et al.
Reissue Application No. 10/635,468
Reissue Application Filed: August 7, 2003
Reissue of Patent No. 5,600,672
Attorney Docket No. 2003_1117

This decision concerns the November 25, 2003 "Petition for Establishment of Filing Date and Acknowledgment of Receipt of Necessary Papers for Reissue Application" which is being properly treated as a petition under 37 CFR 1.53 that the above-referenced reissue application be accorded a filing date of August 7, 2003.

The petition is **GRANTED.**

The instant reissue application was deposited on August 7, 2003. On October 10, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Reissue Application ("10/10/03 Notice"), stating that the application was not accorded a filing date because it was deposited without a specification, any claim, any drawing, consent of the assignee, or a statement under 37 CFR 3.73(b) establishing assignee ownership in the patent sought to be reissued.

The petition then followed, disputing the 10/10/03 Notice. In support, the petition is accompanied by a copy of counsel's postcard receipt indicating receipt in the USPTO for this application on August 7, 2003 of, *inter alia*, 178 sheets of drawings, a 43-page specification including claims, and the other items requested in the 10/10/03 Notice.

In view of the above, the Office concludes that the reissue application, upon filing on August 7, 2003, included the items requested in the 10/10/03 Notice (in the form of a copy of Patent No. 5,600,672). The petition is thus granted. The 10/10/03 Notice is hereby vacated. The $130 petition fee has been credited to Deposit Account No. 23-0975.

In addition, the duplicate copy of Patent No. 5,600,672 enclosed with the instant petition has again been misplaced. The Office acknowledges receipt on August 4, 2004 of a second duplicate copy of Patent No. 5,600,672.

The application file is being returned to OIPE for further processing with a filing date of August 7, 2003, using the duplicates of the above-noted items re-submitted on August 4, 2004; for indicating in the USPTO record that 178 sheets of drawings were present on filing; and for mailing a Filing Receipt reflecting the filing date and that 178 sheets of drawings were filed on August 7, 2003.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763 (before September 15, 2004), or to the undersigned at (703) 306-5683 (before September 27, 2004) or (571) 272-3203 (after September 27, 2004).

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

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

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Oshima, et. al. :
Application No. 10/635,468 :
Filed: August 7, 2003 :
Attorney Docket No. 2003_1117 :

DECISION GRANTING
PETITION UNDER
37 CFR §1.183

This is a decision on the March 14, 2007, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1) in addition to waiver of 37 CFR 1.125(d).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is GRANTED.

A fee of $400.00 has been received and processed for the petition under 37 CFR 1.183.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on August 7, 2003. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on August 7, 2003 is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The reissue application was originally filed with a specification that did not comply with 37 CFR 1.173(a)(1). On August 7, 2003, a substitute specification was filed together with a supplemental amendment. The substitute specification includes bracketing and underlining to show the changes relative to the patent specification. Applicant states that no new matter was added.

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that "in a telephone conversation with the Examiner in connection with reissue

application 09/686,464, which is also a divisional application of reissue application 09/244,037, the Examiner required a substitute specification and indicated that substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered.[1]"

This basis is considered to be sufficient for granting the petition. The rule will be waived to comply with the requirement of the examiner, since there is no other way to present the required substitute specification, and the requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. The substitute specification filed on August 7, 2003 is accepted, and will be entered.

3. The reissue application file is being forwarded to the Technology Center for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Amelia Au, Office of Petitions, at (571) 272-7414.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

[1] No other record of the referenced telephone conversation can be found in this application file.

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

LONG AND CAMERON
SUITE 1401 - 1166 ALBERNI STREET
VANCOUVER BC V6E 3Z3 CA CANADA

AUG 26 2008

In re Application of :
HALSTROM, LEONARD W. :
Application No. 10/635,483 : DECISION ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 317P1US :

This is a decision in response to the "Petition To Withdraw Holding of Abandonment filed on August 10, 2007.

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 (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 22, 2006. The Notice of Abandonment, mailed on June 13, 2007 indicates, "The submitted fee of $0 is insufficient. A balance of $1,700 is due. The issue fee required by 37 CFR 1.18 is $1,400. The publication fee, if required by 37 CFR 1.18(d) is $300."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on March 19, 2007, the Issue Fee was paid by check. On April 25, 2007, when an attempt was made by the Office of Finance to cash the check, there were insufficient funds in the Checking Account.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 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 inquires with respect to filing a petition under 37 CFR § 1.137 may 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 matter may be directed to the undersigned at 703 308-9250 Ext. 175.

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

CAMERON IP
SUITE 1401 - 1166 ALBERNI STREET
VANCOUVER BC V6E 3Z3 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Halstrom, Leonard W. :
Application No. 10/635,483 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 317P1US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees (previously received on August 10, 2007), (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
Takaaki Aoki, et al. :
Application No. 10/635,490 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 01-459 :

This is a decision on the petition, filed May 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 24, 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
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 20, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Takaaki Aoki, et al.
Application No. : 10/635,490
Filed : August 7, 2003

The above-identified application has been assigned Patent No. 6,903,415 and an issue date of June 7, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 7, 2005:

> "All reference to Patent No. 6,903,415 to TAKAAKI AOKI, ET AL. of JAPAN for SEMICONDUCTOR DEVICE AND A METHOD OF PRODUCING THE SAME appearing in the Official Gazette of June 7, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington, DC 20006

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APR 7 2006
OFFICE OF PETITIONS

In re Application of :
Meloul : DECISION ON PETITION
Application No. 10/635,503 :
Filed: August 7, 2003 :
Docket No.: 27419.004.00-US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 13, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed September 12, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed January 23, 2006.

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 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. The change of correspondence address submitted herewith has not been entered into the record. 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 will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Furthermore, 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.

This application will be forwarded to the Office of Patent Publications 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

CC: SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
P.O. BOX 88148
ATLANTA, GA 30356

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of FREDRICKSON et al	:	
Application No.: 10/635,563	:	DECISION ON PETITION
Filing Date: August 7, 2003	:	FOR ACCELERATED
For: INTERNATIONAL AND DOMESTIC	:	EXAMINATION UNDER
COLLECTION SYSTEM	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed April 12, 2004 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 April 12, 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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United States Patent and Trademark Office
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BACON & THOMAS PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314

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FEB 16 2007

OFFICE OF PETITIONS

In re Patent No. 6,756,665 :
Issue Date: June 29, 2004 :
Application No. 10/635,564 : DECISION ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. CHAN3215/EM :

This is a decision on the petition under 37 CFR 1.182, filed July 14, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a duplicate Letters Patent may be directed Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of the duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 273-9756)

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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of	:	
Stephane Cote	:	
Application No. 10/635,570	:	DECISION ON TWO PETITIONS
Filed: August 7, 2003	:	PURSUANT TO
Attorney Docket No. 36488-188318	:	37 C.F.R. §§ 1.137(a) AND (B)
Title: INTERACTIVE TOOL FOR REMOVAL OF ISOLATED OBJECTS ON RASTER IMAGES	:	

This is a decision on the petition filed August 23, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application. The submission is properly construed as also containing a conditional petition pursuant to 37 C.F.R. § 1.137(b)[2]

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

(1) the required reply (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;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 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;

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[3]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007.

The petition pursuant to Rule § 1.137(a):

The standard

Nonawareness of a PTO rule will not constitute unavoidable delay[4]

The burden of showing the cause of the delay is on the person seeking to revive the application[5].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

---

(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.

3 See MPEP § 710.02(e).

4 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

5 Id.

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[8].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[9]."

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[10]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133[11].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[12]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[13]."

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[14].

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8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
9 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
10 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
11 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; 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. 103, 131 (Comm'r Pat. 1891).
12 Link at 633-634.
13 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
14 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550,

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[15]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[16]."

Application of the Standard to the Present Set of Facts

With the present petition, Petitioner has asserted that she prepared the issue fee transmittal, the accompanying fee transmittal form, and an internal filing receipt for electronic filing on July 20, 2007. Petitioner intended to e-file these documents, but for reasons that have not been made clear, these documents were never e-filed. Petitioner has further set forth that she believed that the e-filing had taken place.

Petitioner has not explained why she never e-filed these documents.

Petitioner has not explained why she believed that the e-filing had taken place, despite the fact that she did not e-file these documents.

Moreover, while this error might be considered unintentional, it does not rise to the high standard associated with the characterization of a failure to respond as "unavoidable". The present situation is similar to a docketing error, as set forth in MPEP § 711.03(c)(II)(C)(2). A similar mistake can be characterized as unavoidable, but only when the actor was an employee such as a docket clerk or a paralegal. **When the actor is a registered member of the patent bar, she is held to a higher standard than one of these aforementioned employees.** As such, Ms. Swindell's failure to e-file the aforementioned documents cannot be characterized as unavoidable.

Conclusion

Pursuant to the discussion above, the petition under 37 C.F.R. § 1.137(a) must be DISMISSED.

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).
15 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
16 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

The petition pursuant to Rule § 1.137(b):

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in the present petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

With the present petition, Petitioner has included a statement that is being construed as the proper statement of unintentional delay. The concurrently submitted issue fee shall serve as the required reply. A terminal disclaimer is not required.

The petition pursuant to 37 C.F.R. § 1.137(b) is GRANTED.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[17]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Hommen et al.	:	
Application No. 10/635,583	:	ON PETITION
Filed: 6 August, 2003	:	
Attorney Docket No. P2001.0128	:	

This is a decision on the petition filed on 23 December, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

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 to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application became abandoned on 10 May, 2004, for failure to timely file a response to non-final Office action mailed on 9 February, 2004, 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 18 October, 2004.

Petitioner asserts that the Office action mailed on 9 February, 2004, was never received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Office action mailed on 9 February, 2004, 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 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.[2] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. While petitioners provided on 4 February, 2005, a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received nor a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed, upon further review it is noted that a copy of the docket record where the non-received Office action would have been entered had it been received and docketed cannot be located

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[2] 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).

among the papers received with the petition on 23 December, 2004. As the required showing has not been presented, the petition must be dismissed.

Petitioners should submit, with a renewed petition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record must be attached to and referenced in practitioner's statement.[3]

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[4] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] 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] 35 U.S.C. § 133.

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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).[6] 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.[7]

As the showing of record, petitioner's unsubstantiated assertion that the Office action mailed on 9 February, 2004, was never received is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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[6]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[7]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

(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).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $1,500.00 for other than a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

By hand: Customer Service 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)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

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OFFICE OF PETITIONS

In re Application of :
Hommen et al. :
Application No. 10/635,583 : ON PETITION
Filed: 6 August, 2003 :
Attorney Docket No. P2001.0128 :

This is a decision on the renewed petition under 37 CFR 1.137(a),[1] filed on 28 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 May, 2004, for failure to timely file a response to non-final Office action mailed on 9 February, 2004, 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 18 October, 2004. The petition filed on 23 December, 2004, was dismissed on 17 February, 2005.

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application is restored to pending status.

The application is being forwarded to Technology Center Art Unit 1756 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION ZINN MacPEAK AND SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Higuchi et al :
Application No. 10/635,603 : DECISION GRANTING PETITION
Filed: August 7, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q76678 :

This is a decision on the petition, filed February 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUGHRUE MIOIN ZINN MacPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Hiroshi Higuchi et al :
Application No. 10/635,603 : DECISION GRANTING PETITION
Filed: August 7, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q76678 :

This is a decision on the petition, filed September 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3711 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

---

[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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DIW Jun-06

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

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JUN 26 2006

OFFICE OF PETITIONS

In re Patent No. 6,954,337	:	
Issued: 11 October, 2005	:	
Application No. 10/635,607	:	ON PETITION
Filed: 7 August, 2003	:	
Atty Dckt No. 500.369494CC4	:	

This is a decision on the petition filed on 11 May, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

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FEB 08 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hiroshi Higuchi, et al. :
Application No. 10/635,610 :
Filed: August 7, 2003 :
Attorney Docket No. Q76677 :

This is a decision on the petition, filed February 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3711 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Hiroshi Higuchi, et al. :
Application No. 10/635,610 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No.: Q76677 :
:

This is a decision on the petition, filed September 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 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 3711 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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P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Melvin R. Kennedy et al :
Application No. 10/635,630 : DECISION ON PETITION
Filed: August 6, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 6865-18 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 23, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

The instant petition includes a statement by Mark D. Passler of Melvin R. Kennedy, stating that the inventor is over 65 years of age. Mark D. Passler is not the applicant and the petition does not include evidence of age.

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.

This matter is being referred to Technology Center Art Unit 3764 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Melvin R. Kennedy et al	:	DECISION ON PETITION
Application No. 10/635,630	:	TO MAKE SPECIAL UNDER
Filed: August 6, 2003	:	37 CFR 1.102(c)(1)
Attorney Docket No. 6865-18	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed January 11, 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 renewed petition includes a copy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3764 for action on the merits commensurate with this decision.

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
P.O. Box 1450
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Kenjiro Morimoto	: DECISION ON REQUEST FOR
Patent Number	: 7620686	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/635,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 29, 2006

TO SPE OF : ART UNIT 1731 Eric J. Hug

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635,663 Patent No.: 7037406 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**.

Antonia Johnson
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: _____

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Steven P. Griffin
SPE

1731
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PAUL HASTINGS JANOFSKY & WALKER
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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APR 11 2006

OFFICE OF PETITIONS

In re Application of
Theresa M. Miale et al
Application No. 10/635,670
Filed: August 5, 2003
Attorney Docket No. 38602.00002.CON1

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 29, 2005.

The petition is **NOT APPROVED** as moot

while an attorney or agent at Paul, Hastings, Janofsky and Walker LLP submitted the above-identified application, a review of the official file record indicates that Jane I. Song, Esq. and those practitioners associated with Customer No. 36183 were not giving power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will be directed to the above-listed address until otherwise notified by a registered practitioner giver power of attorney in this application, an assignee, or the applicant. See 37 CFR 1.33(a)(2). Additionally, the request was not signed.

This application is being referred to Technology Center AU 3644.

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

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

JUN 27 2005

TECHNOLOGY CENTER 3600

James J. Daley
c/o Medcount Systems, L.L.C.
30 Hillside Road
Elizabeth, NJ 07208

In re application of :
Maurus Logan :
Application No. 10/635,671 :
Filed: August 6, 2003 :
For: METHOD AND APPARATUS FOR SECURING: CABLES AND THE LIKE :

DECISION ON PETITION TO MAKE SPECIAL (AGE)

This is a decision on the petition submitted on June 9, 2005 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.

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 petition fails to adequately meet the requirements above as the statement concerning Mr. Logan's age was made by the attorney, not Mr. Logan.

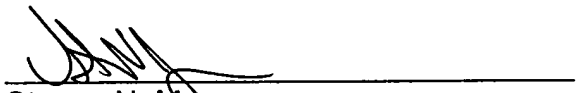
For the above stated reasons, the petition is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.
Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

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

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

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



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dew: 6/20/05

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Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

JUL 15 2005

TECHNOLOGY CENTER 3600

James J. Daley
c/o Medcount Systems, L.L.C.
30 Hillside Road
Elizabeth, NJ 07208

In re application of : **DECISION ON PETITION**
Maurus Logan : **TO MAKE SPECIAL**
Application No. 10/635,671 : **(APPLICANT'S AGE)**
Filed: August 6, 2003 :
For: METHOD AND APPARATUS FOR SECURING :
CABLES AND THE LIKE :

This is a decision on the renewed petition submitted on July 6, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED** .

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Logan indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 07/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AARON WININGER
SQUIRE, SANDERS & DEMPSEY, L.L.P.
600 HANSEN WAY
PALO ALTO, CA 94304-1043

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JUN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Li-Wen Chen	:	
Application No. 10/635,690	:	DECISION ON REQUEST
Filed: August 5, 2003	:	TO WITHDRAW
Attorney Docket No. 52719.00045	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 14, 2003.

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 Aaron Wininger on behalf of himself and all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

It is noted that a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address was filed February 2, 2004, February 9, 2004 and August 22, 2005, respectively. As none of these requests included a reason for withdrawal under the mandatory or permissive reasons enumerated in 37 CFR 10.40, the Office was unable to approve the request.

Applicant should note that the change of correspondence address filed November 30, 2005 has been accepted and the address has been changed accordingly. However, in view of the present decision, **there is no attorney of record at this time**.

Applicant should also note that there is an outstanding Office action mailed March 28, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: LI-WEN CHEN
7725 OAK MEADOW COURT
CUPERTINO, CA 95014

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
David Glasco	:	DECISION ON APPLICATION
Application No.10/635,703	:	FOR
Filed: August 5, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. NWISP036	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed April 24, 2007 (certificate of facsimile transmission dated April 24, 2007), requesting reconsideration of the initial determination of patent term adjustment mailed with the Notice of Allowance.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

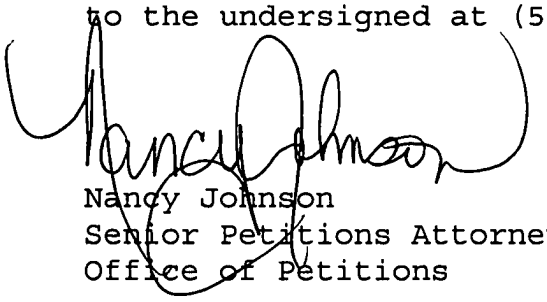
On April 20, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero days. PALM records indicate that the issue fee payment was received in the Office on April 20, 2007. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of

mailing of the notice of allowance ended April 20, 2007. Accordingly, it is appropriate to dismiss this petition as untimely filed.

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

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 04/21/2010

Applicant	: Juan R. Loaiza	: DECISION ON REQUEST FOR
Patent Number	: 7617254	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/635,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **932** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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OFFICE OF PETITIONS

In re Application of Van Buuren et al. :
Application No. 10/635,711 : Decision on Petition
Filing Date: August 6, 2003 :
Attorney Docket No. F7420(V) :

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A final Office action was mailed October 4, 2005.

An amendment and a request for an extension of time were filed February 6, 2006. Petitioner has also established a Notice of Appeal was filed February 6, 2006.

Unfortunately, the Notice of Appeal filed February 6, 2006, was not matched with the file. As a result, the Office mailed an Advisory Action on February 21, 2006, and a Notice of Abandonment on May 22, 2006.

A RCE, request for extension of time, terminal disclaimer, and amendment were timely filed September 6, 2006.

Petitioner has shown the application is not abandoned. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1761 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will enter the papers filed September 6, 2006, and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MARC A. ROSSI
ROSSI & ASSOCIATES
P.O. BOX 826
ASHBURN VA 20146-0826

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OFFICE OF PETITIONS

In re Application of :
Shinichiro Kawano et al :
Application No. 10/635,720 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. MATS:027A :

This is a decision on the petition, filed August 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 19, 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 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Paper No. _____

Date : August 26, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shinichiro Kawano et al
Application No. :10/635,720
Filed :August 6, 2003

The above-identified application has been assigned Patent No. 6,940,191 and an issue date of September 6, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 6, 2005:

"All reference to Patent No. 6,940,191 to Shinichiro Kawano et al of Japan for LINEAR MOTOR appearing in the Official Gazette of September 6, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Clifford Joe Hensley :
Application No. 10/635,724 : DECISION ON PETITION
Filed: August 5, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. # 910 :

This is a decision in response to a petition, filed September 13, 2004, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed on August 5, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/403,997, which was filed on August 17, 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. 60/403,997 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 Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 3671 for appropriate action on the amendment submitted September 13, 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. 60/403,997.

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

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

ATTACHMENT: Corrected Filing Receipt

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In re Application of: Kishimoto, et al.
Application No. 10/635,739
Filed: August 5, 2003
For: STORAGE DEVICE AND METHOD OF SETTING CONFIGURATION INFORMATION OF 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 20 January 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 **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 20 January 2005 fails to adequately meet requirement (e) of the criteria set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The limitations purported to distinguish all of the independent claims from the references are not in all of the independent claims. For example, in the discussion of U.S. Patent No. 4,807,186, it is stated that the reference "does not disclose that a terminal device sends a command group, which is related to the configuration information of the storage device, to the service processor, and that the service processor determines approval or denial of execution of a command group, as recited in independent claims 1, 4, and 6." However, it is not at all clear that claim 6 requires that the service processor determine approval or denial of execution of a command group. As another example, in the discussion of the remaining seven references it is stated that each of the references fails to teach or disclose "a service processor that determines approval or denial of execution of a command group prior to execution of the command group, as recited in independent claims 1, 4, and 6." However, it is not clear that claim 4 requires that the service processor determine approval or denial prior to execution. While the determination step is recited before the execution step in claim 4, there appears to be no requirement that the steps occur in that sequence. As noted above, claim 6 does not appear to require that the service processor determine approval or denial of execution of a command group. Furthermore, claim 6 does not even appear to require a step of determining approval or denial of execution of a command group. 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 **each** of 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.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

In re Application of
Vincent Alan Larsen
Application No. 10/635,755
Filed: August 5, 2003
Attorney Docket No. SAGE-26,407

DECISION GRANTING PETITION

This is a decision on the petition filed May 24, 2004, requesting that the above-identified application retain the presently accorded filing date of August 5, 2003, with Figures 12-18 of the specification as part of the original disclosure.

On August 5, 2003, the above-identified application was filed. On May 5, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application " (the "Notice"), stating that the application had been accorded a filing date of August 5, 2003, however, Figures 12-18 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 May 24, 2004, applicant filed the present petition, and a complete copy of the application filed on August 5, 2003, and a copy of the Office date-stamped postcard receipt acknowledging receiving 14 sheets of drawings on August 5, 2003.

Upon review of the record, Figures 12-18 as described in the specification were not located among the original application papers. The evidence is convincing, however, that Figures 12-18 accompanied the original application papers. Therefore, the application, including Figures 12-18, was complete on filing and entitled to the presently accorded filing date of August 5, 2003.

Accordingly, the petition is granted. The petition fee of $130.00 will be refunded, 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 5, 2003, using the fourteen sheets of drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 9/2/04 | 2 Serial/Patent # 10/635,755

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	—	5/24/04	$ 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 20--0780

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office Error.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Kenya McLaughlin TITLE: Petitions Atty.

SIGNATURE: Kenya McLaughlin PHONE: 305-2010

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 9/3/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

Repln. Ref: 09/03/2004 AKELLEY 00090443 00
DA#:200780 Name/Number:10635755
FC: 9204 $130.00 CK

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OFFICE OF PETITIONS

In re Application of	:	
Kouji Arai et al.	:	
Application No. 10/635,764	:	DECISION ON PETITION UNDER
Filed: August 5, 2003	:	37 C.F.R. §1.181(A)
Attorney Docket Number: 16869P-006210US	:	
Title: SYSTEM AND METHOD FOR REPLICATING DATA	:	

This is a decision on the petition under 37 CFR §1.181(a), filed January 9, 2006, to withdraw the holding of abandonment.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[1]. Accordingly, the above-identified application became abandoned on November 3, 2005. A Notice of Abandonment was mailed on December 19, 2005.

With the present petition, petitioner has asserted that the Notice of Allowance and Issue Fee Due was never received. Petitioner has included a copy of his docket report, and has set forth that a review of both the docket records and the file jacket has not resulted in the location of this notice.

1 See MPEP §710.02(e).

RELEVANT PORTION OF THE MPEP

MPEP 711.03(c) states, in part:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the instant petition is not sufficient to withdraw the holding of abandonment. Although Petitioner has stated that the Office communication was not received and that he searched the file jacket and the docket records, it does not appear that Petitioner has included a copy of the file jacket.

Moreover, the copy of the docket report which Petitioner has submitted cannot be accepted, as it is illegible.

Petitioner has marked the relevant sections with yellow highlighter. This file exists as an electronic file, and as such, all incoming papers are scanned and converted to electronic documents. The electronic file has been reviewed, and a plurality of entries on the docket report are illegible - although the electronic file does not reproduce colors, it is likely that the illegible portions are those entries which Petitioner has highlighted, and the highlighting of these areas does not reproduce well when the papers are converted to black and white electronic documents.

As such, the contents of the relevant sections of this document cannot be discerned. Therefore, Petitioner has not established non-receipt of the communication, and the petition must be **DISMISED**.

CONCLUSION

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to include a copy of the file jacket, as well as a copy of the docket report which has not been annotated in yellow highlighter.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Kouji Arai et al. :
Application No. 10/635,764 :
Filed: August 5, 2003 :
Attorney Docket Number: 16869P-006210US :
Title: SYSTEM AND METHOD FOR REPLICATING DATA :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 CFR §1.181(a), filed April 11, 2006, to withdraw the holding of abandonment.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[1]. Accordingly, the above-identified application became abandoned on November 3, 2005. A Notice of Abandonment was mailed on December 19, 2005.

With the original petition, Petitioner asserted that the Notice of Allowance and Issue Fee Due was never received. Petitioner included a copy of his docket report, and set forth that a review of both the docket records and the file jacket has not resulted in the location of this notice.

1 See MPEP §710.02(e).

RELEVANT PORTION OF THE MPEP

MPEP 711.03(c) states, in part:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The original petition was submitted on January 9, 2006, along with a statement that the Office communication was not received and that he searched the file jacket and the docket records. Petitioner also submitted a copy of the docket records. The petition was dismissed via the mailing of a decision on March 3, 2006, as the relevant portions of the docket records were not legible.

With this renewed petition, a fully legible copy of the docket records has been provided.

CONCLUSION

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 mail a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three-month non-extendable time period for paying the issue and publication fees will be set to run from the mailing date of the Notice.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/635,766	08/06/2003	3654	683	2815-001	23	47	3

CONFIRMATION NO. 1707

22208
ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

CORRECTED FILING RECEIPT

OC000000011860457

Date Mailed: 02/09/2004

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)

Mark Burlingame, Sherwood, OR;
Corey Burlingame, Sherwood, OR;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/402,303 08/09/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Staple gun apparatus for attaching tab

Preliminary Class

254

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005-1257

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OFFICE OF PETITIONS

In re Application of :
George L. Paul et al :
Application No. 10/635,775 :
Filed: August 7, 2003 :
Attorney Docket No. 11848/9 :

ON PETITION

This is a decision on the petition, filed February 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2831 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : March 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :George L. Paul et al
Application No. :10/635,775
Filed :August 7, 2003

The above-identified application has been assigned Patent No. 6,870,726 and an issue date of March 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 22, 2005:

"All reference to Patent No. 6,870,726 to George L. Paul et al of Australia for CHARGE STORAGE DEVICE appearing in the Official Gazette of March 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Patent No. 7,538,483 :
Issue Date: May 26, 2009 :
Application No. 10/635,777 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 50024-015 :

This is a decision on the petition filed June 12, 2009, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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OFFICE OF PETITIONS

ROBERTS MLOTKOWSKI SAFRAN & COLE PC
INTELLECTUAL PROPERTY DEPARTMENT
PO BOX 10064
MCLEAN VA 22102-8064

In re Patent No. 6,882,294 :
Issue Date: April 19, 2005 :
Application No. 10/635,826 : DECISION ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. 14485.11 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed July 21, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued April 19, 2005. Accordingly, the first maintenance fee could have been paid during the period from April 19, 2008 through October 19, 2008 without surcharge, or with a late payment surcharge during the period from October 20, 2008 through April 19, 2009. No maintenance fee having been received, the patent expired on April 20, 2009.

Since the instant petition was filed 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 in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Receipt of the $1,640 petition surcharge and the $980 maintenance fee is acknowledged.

The patented file is being returned to Files Repository.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of :
Tsung-Pei Chiang :
Application No. 10/635,828 : DECISION ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. E0523-00022 :

This is in response to the "PETITION UNDER 37 CFR 1.183 REQUESTING WAIVER OF THE SIGNATURE REQUIREMENT OF THE NON-SIGNING INVENTOR ON SUPPLEMENTAL REISSUE DECLARATION UNDER 37 C.F.R. §1.175", filed November 14, 2007.

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner 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 1.183," and should only address the deficiencies noted below, except that the reply may include a supplemental reissue 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).

Petitioner has filed the instant petition, together with a Supplemental Declaration for Reissue Patent Application, lacking

the signature of inventor Chiang. Petitioner explains that Grabiec is no longer employed by the assignee, and could not be located.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Here, petitioner has failed to provide the Office with a showing of the steps taken to locate Chiang, or explain how petitioner knows that Chiang is no longer at his last known address. Petitioner has provided no documentary evidence, such as a copy of an internet search, to support such a finding[1].

The petition fee of $400 has been charged to Deposit Account No. 04-1679, as authorized.

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 may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] Such documentary evidence should be made part of the affidavit or declaration. See MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of :
Tsung-Pei Chiang :
Application No. 10/635,828 : DECISION ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. E0523-00022 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.183", filed February 5, 2008.

The petition under 37 CFR 1.183 is **DISMISSED** as moot.

Petitioner has filed the instant request for reconsideration, together with a Supplemental Declaration for Reissue Patent Application, executed by inventor Chiang. As the supplemental declaration has now been executed, consideration of the petition under 37 CFR 1.183 is unnecessary, and is dismissed as moot.

The matter is being forwarded to Group Art Unit 2629.

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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Erick P. Wolf
WANG & PATEL, P.C.
1301 Dove Street, Suite 1050
Newport Beach, CA 92660

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Technology Center 2100

In re Application of:
Shuning Wann et al.
Application No. 10/635,833
Filed: August 06, 2003
For: REAL TIME DATA ENCRYPTION/DECRYPTION SYSTEM AND METHOD FOR IDE/ATA DATA TRANSFER

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 7, 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**.

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Erick P. Wolf
WANG & PATEL, P.C.
1301 Dove Street, Suite 1050
Newport Beach, CA 92660

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TECHNOLOGY CENTER 2100

In re Application of:
Shuning Wann et al.
Application No. 10/635,833
Filed: August 06, 2003
For: REAL TIME DATA ENCRYPTION/DECRYPTION SYSTEM AND METHOD FOR IDE/ATA DATA TRANSFER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 27, 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: Mr. Robert Wann/Shuning Wann
Enova Technology Corporation
Building 53, #195-57, Sec. 4.
Chung Hsing Road, Chutung District
Hsin-Chu County, Taiwan

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SCHWABE, WILLIAMSON & WYATT
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of :
Robert Harrington et al :
Application No. 10/635,845 : DECISION GRANTING PETITION
Filed: August 5, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 108670-133952 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and an executed declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of August 4, 2004, 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 3742.

Karen Creasy

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

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Joseph W. Berenato, III
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

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OFFICE OF PETITIONS

In re Application of :
Yoo Cheol Song :
Application No. 10/635,857 :
Filed: August 7, 2003 :
Attorney Docket No. 6290.330 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

There is an outstanding Office action mailed April 19, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jackson & Co., LLP
6114 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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APR 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael J. DeLuca et al.	:	
Application No. 10/635,862	:	DECISION ON PETITION
Filed: August 5, 2003	:	TO WITHDRAW
Attorney Docket No. FN-101-CIP-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

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

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FotoNation, Inc.**
IP Dept.
800 Airport Blvd.
Suite 552
Burlingame, CA 94010

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

Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Michael J. DeLuca	: DECISION ON REQUEST FOR
Patent Number	: 7630006	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/635,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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M. PAUL HENDRICKSON
403 MAIN STREET, P.O. BOX 508
HOLMEN, WI 54636-0508

MAILED AUG 17 2006

In re Application of
HOWE, ALICE H.
Application No.: 10/635,873
Filed: August 05, 2003

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition filed April 7, 2006 under 37 CFR 1.181 requesting the Director or other U.S. Patent Office Official to exercise supervisory authority with regard to the refusal of the examiner to enter exhibits in an appeal brief.

The petition is granted to the extent that prosecution is being reopened in this application.

Petitioner requests that Exhibits B-F of appellant's appeal brief filed on January 5, 2006 be entered. In support petitioner argues that the examiner is well aware of the contents of Exhibits B-F since these same Exhibits were part of the Appeal Brief of Appeal 2004-2020 of parent application 09/655,743. In addition, petitioner points out that the responses to the office actions of February 17, 2005 and August 11, 2005 incorporated by reference the papers filed in the parent application. That such incorporation by reference already made Exhibits B-F of record in the current application.

37 CFR 1.104(b) states:

> *Completeness of examiner's action.* The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

37 CFR 41.33 states:

> (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title.

(b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted:

(1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or

(2) To rewrite dependent claims into independent form.

(c) All other amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i), 41.50(b)(1) and 41.50(c).

(d)(1) An affidavit or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to § 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made.

(2) All other affidavits or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i) and 41.50(b)(1).

37 CFR 41.37(c)(2) states:

A brief shall not include any new or nonadmitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

MPEP 707.07(f) states in part:

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

Where the requirements are traversed, or suspension thereof requested, the examiner should make proper reference thereto in his or her action on the amendment.

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

MPEP 201.06(c) states in part:

Affidavits or declarations, such as those submitted under 37 CFR 1.130, 1.131 and 1.132 filed during the prosecution of the prior nonprovisional application do not automatically become a part of a continuation or divisional application filed under 37 CFR 1.53(b). Where it is desired to rely on an earlier filed affidavit or declaration, the applicant should make such remarks of record in the 37 CFR 1.53(b) application and include a copy of the original affidavit or declaration filed in the prior nonprovisional application.

A review of the application does not provide a clear record of how Exhibits B-F were treated by the examiner prior to the filing of the appeal brief filed on January 5, 2006. The office action mailed on August 11, 2005 is silent as to the treatment of the incorporation by reference of the papers of the parent application. Since a copy of the affidavit or declaration (Exhibit D) was not provided in accordance with MPEP 201.06(c), the affidavit is not considered

to be currently part of the record of the current application. In addition, there is no provision for incorporating by reference other types of exhibits. The file record of this application must be complete and petitioner must provide copies of any evidence to be considered by the examiner. Therefore, in accordance with 37 CFR 41.33 and 37 CFR 41.37(c)(2) exhibits B-F will not be admitted and the appeal brief filed on January 5, 2006 will not be entered.

However, as pointed out in 37 CFR 1.104(b) and MPEP 707.07(f), the examiner must supply a complete action to the applicant addressing all of applicant's arguments. Since petitioner's arguments were not addressed with regard to the incorporation by reference, the examiner is instructed to reopen prosecution to properly address applicant's incorporation by reference arguments.

The application is being forwarded to the examiner for an action not inconsistent with this decision.

Any questions regarding this decision should be directed to Special Program Examiner, Linda Sholl, at 571-272-4391.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David O. McGoveran
P.O. Box 2097
Boulder Creek, CA 95006

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DEC 26 2006

OFFICE OF PETITIONS

In re Application of :
Diwakar R. Govindugari, et. al. :
Application No. 10/635,891 : ON PETITION
Filed: August 5, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 31, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely respond to the non-final Office action mailed November 7, 2005. A Notice of Abandonment was mailed on June 8, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(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**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

Since the statement of unintentional delay is signed by one of two inventors, it cannot be accepted at this time. 37 CFR 1.33(b) states:

> Amendments and other papers filed in the application must be signed by:
>
> (1) An attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

If the instant petition is signed or submitted on behalf of the assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). 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. A blank Statement under 37 CFR 3.73(b) is enclosed with this decision.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,080 extension of time on July 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner by Treasury Check, in due course.

Any request for reconsideration 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)." Petitioner is advised that this is **not** a final agency decision.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/96 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	12/22/06	2 Serial/Patent #	10/635,891

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	Wfee	07/31/06	$ 1,080.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND	$ 1,080.00

8 TO BE REFUNDED BY:

X	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension of Time filed outside maximum period for reply.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Andrea Smith TITLE: Petitions Examiner

SIGNATURE: /Andrea Smith/ PHONE: 2-3226

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: A Kelley DATE: @ 12/26/06

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
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Refund Ref: 12/26/2006 AKELLEY 0000155260 $1080.00
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Ki-jae Do :
Application No. 10/635,901 : Decision on Petition
Filed: August 7, 2003 :
Attorney Docket No. 1349.1191 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2005, to revive the above-identified application.

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 permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on June 18, 2005.

Although the facsimile transmission sheet states 4 pages were transmitted, the file only contains 3 pages - 1 page facsimile transmittal sheet, first page of petition, 1 page issue fee transmittal form.

It appears that page 2 of the petition has been misplaced. As a result, the petition is unsigned and does not include 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 Office requests petitioner resubmit a copy of page 2 along with a statement that page 2 was in fact filed with the papers on July 6, 2005. See 37 CFR 1.8(b).

The petition states that the application became abandoned on June 21, 2005. However, since a timely reply was not filed, abandonment occurred as of midnight on June 18, 2005. Any future statement that the entire delay was unintentional from the due date for the reply until the filing of the instant petition is being construed to include the time period between June 18, 2005, and July 14, 2005.

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three 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 (571) 272-3203.

Charles Steven Brantley
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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Ki-jae Do :
Application No. 10/635,901 : Decision on Petition
Filed: August 7, 2003 :
Attorney Docket No. 1349.1191 :

This is a decision on the renewed 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 submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on June 18, 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 Office of Publications will be informed of the instant decision so that it may take steps to issue the application as a patent.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Seong-Hoon Lee, Jun-Hong Ahn and :
Joo-Sun Choi : DECISION ACCORDING STATUS
Application No. 10/635,913 : UNDER 37 CFR 1.47(a)
Filed: August 7, 2003 :
Attorney Docket No. 082123-0305434 :
Title: Ring-resister controlled DLL:
with fine delay line and direct :
skew sensing detector :
:

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed April 5, 2004.

The petition is **GRANTED**.

The above-identified application was filed on August 7, 2003, without an executed oath or declaration. Accordingly, on November 4, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the missing items, including an executed oath or declaration and a surcharge for its late filing.

In response, rule 47 applicants filed the instant petition (and fee); the late surcharge; and a declaration executed by inventor Ahn on behalf of himself and on behalf of non-signing joint inventors Lee and Choi. This response was made timely by an accompanying petition and fee for extension for response within the third month. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventors Lee and Choi cannot be located after diligent effort.

The petition includes payment of the petition fee and a statement of the last known addresses of inventors Lee and Choi. By declaration of facts of Yong-Soo Har, and supporting documentary evidence, applicants provided adequate proof that diligent efforts had been undertaken to locate inventors Lee and Choi.

The declaration filed April 5, 2004, and the petition 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 new 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 regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Seong-Hoon Lee
#105-803 Cheonggu Apt., 559-3
Sinha-ri, Bubal-Eub
Icheon-si
Gyeonggi-do 467-863
KOREA

COPY MAILED

MAY 28 2004

OFFICE OF PETITIONS

In re Application of
Seong-Hoon Lee, Jun-Hong Ahn and
Joo-Sun Choi
Application No. 10/635,913 : LETTER
Filed: August 7, 2003
Attorney Docket No. 082123-0305434
Title: Ring-resister controlled DLL
with fine delay line and direct skew
sensing detector

Dear Mr. Lee:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. 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).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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

Joo-Sun Choi
#705-1202 Hyundai 7-Cha Apt.
Ami-ri, Bubal-Eub
Icheon-si
Gyeonggi-do 467-866
KOREA

COPY MAILED

MAY 28 2004

OFFICE OF PETITIONS

In re Application of
Seong-Hoon Lee, Jun-Hong Ahn and
Joo-Sun Choi
Application No. 10/635,913
Filed: August 7, 2003
Attorney Docket No. 082123-0305434
Title: Ring-resister controlled DLL with fine delay line and direct skew sensing detector

LETTER

Dear Mr. Choi:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. 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).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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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JAN 24 2007

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:
Balaji Venkataraman	:
Serial No.: 10/635,928	: PETITION TO MAKE SPECIAL
Filed: August 6, 2003	:
Attorney Docket No.: 52761-0110	:

This is in response to applicants' petition filed September 11, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted and may be due to errors in properly forwarding the petition for consideration after converting the application to an image file wrapper..

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**. It is noted that prosecution is well advanced in this application and granting of this petition does not relieve applicant of the responsibility of timely replying to the outstanding Office action. It will, however, result in any reply being considered expeditiously.

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, 571-273-8300.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Petrie et al.	:	
Application No. 10/635,934	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. 07298.0067.NPUS01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to Non-Final Office Action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

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LOUIS J WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Patent No. 6,984,651 :
Duncia, et al. :
Issue Date: January 10, 2006 : DECISION ON
Application No. 10/635,946 : PATENT TERM ADJUSTMENT
Filed: August 7, 2003 :
Attorney Docket No. PH-7167 :

This is a decision on the "PETITION TO CORRECT PATENT TERM PERIOD IN GENERATED PATENT UNDER 37 C.F.R. §1.181", filed March 8, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred fourteen (114) days.

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

On January 10, 2006, the above-identified application matured into U.S. Patent No. 6,861,091. The instant request for reconsideration filed March 8, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment zero (0). Patentees state that they should not have been assessed applicant delay of one hundred twenty (120) days for the submission of a "Letter to File" after the Notice of Allowance.

The adjustment of one hundred twenty (120) days for the submission of a "Letter to File" after the Notice of Allowance has been determined to be correct. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing of certain papers after the mailing of a Notice of Allowance will be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). A response to an examiner's reasons for allowance is listed as an example of a paper that is considered not to be a "failure to engage in reasonable efforts" to conclude processing or examination of an application. On the other hand, a certified copy of a priority document is listed as an example of a paper that is considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. In this instance the "Letter to File" transmitted a reference that was cited in an EP communication in the corresponding European Application. Accordingly, it is concluded that the "Letter to File" is more analogous to a priority document. Moreover, Applicants could have filed the "Letter to File" at anytime during prosecution of the application, but chose to wait until after the mailing of the Notice of Allowance.

In view thereof, the correct determination of PTA at the time of issuance is **zero (0)** days (1114 days of PTO delay, reduced by 153 (120+33) days of applicant delay).

The $200 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 19-3880, as authorized.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

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

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BRISTOL-MYERS SQUIBB COMPANY
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OFFICE OF PETITIONS

In re Patent No. 6,984,651	:	
Duncia, et al.	:	
Issue Date: January 10, 2006	:	DECISION ON
Application No. 10/635,946	:	PATENT TERM ADJUSTMENT
Filed: August 7, 2003	:	
Attorney Docket No. PH-7167	:	

This is a decision on the "REQUEST FOR RECONSIDERATION ON PETITION TO CORRECT PATENT TERM ADJUSTMENT", filed September 21, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred fourteen (114) days.

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

On January 10, 2006, the above-identified application matured into U.S. Patent No. 6,861,091. The Patent issued with a Patent Term Adjustment of zero (0) days. Patentees timely filed an application for patent term adjustment on March 8, 2006. Patentees stated that they should not have been assessed applicant delay of one hundred twenty (120) days for the submission of a "Letter to File" after the Notice of Allowance. However, the application for patent term adjustment was dismissed in a decision mailed on August 21, 2006.

The decision cited to the Official Gazette Notice dated June 26, 2001, where the Director has advised applicants and patentees that the filing of certain papers after the mailing of a Notice of Allowance will be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). The decision pointed out that applicants' "Letter to File", transmitting a reference cited in an EP communication in the corresponding European application, was more analogous to those types of papers that were considered to be a "failure to engage in reasonable efforts" to conclude processing or examination of an application (in particular, a certified copy of a priority document).

On request for reconsideration, patentees argue that the rules do not allow for the submission of an IDS after payment of the issue fee. In addition, patentees assert that the submission of a "Letter to the File" along with the reference did not require any action on the part of the Office other than placing the letter in the file.

Patentees' argument has been considered, but is not persuasive. Although patentees are correct in that the IDS is not considered by the examiner (see MPEP 609.04(b)(IV)), nevertheless the Office must review the document to ascertain exactly what the document is that was submitted.

In view thereof, the correct determination of PTA at the time of issuance is **zero (0)** days (1114 days of PTO delay, reduced by 153 (120+33) days of applicant delay).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

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Wallenstein & Wagner, Ltd.
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Chicago IL 60606-6630

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MAY 31 2006

OFFICE OF PETITIONS

Applicant: Zhao
Appl. No.: 10/635,966
Filing Date: August 7, 2003
U.S. Patent No.: 7,044,506
Issue Date: May 16, 2006
Title: QUICK CONNECTOR ASSEMBLY
Attorney Docket No.: 4555 P 035
Pub. No.: US 2005/0029810 A1
Pub. Date: September 2, 2004

This is in response to the "Request for Correction to Patent Application Publication under 37 CFR 1.221(b)," which was received on February 22, 2005, for the above-identified pplication.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication, as the Office listed the inventor's surname as "Dong" rather than "Zhao."

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 does not identify a material mistake in the publication made by the office under 37 CFR 1.221(b). The application was correctly published with the inventor's name (Zhao Wei Dong) as listed in the Declaration filed August 7, 2003, and provided on the Filing Receipt mailed on November 5, 2003.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant's request for a Corrected Publication on February 22, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of :
Kerstin Willmann et al :
Application No. 10/635,972 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. P-4298.P1C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 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 (Notice) mailed November 20, 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 21, 2004.

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 for preexamination processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. BOX 50784
1201 MAIN STREET
DALLAS TX 75250-0784

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OFFICE OF PETITIONS

In re Application of	:	
Smalley et al.	:	
Application No. 10/635,976	:	ON PETITION
Filed: 7 August, 2003	:	
Attorney's Dckt No. 11321-P012USD14	:	

This is a decision on the petition filed under 37 CFR 1.182 on 29 December, 2003, to withdraw the Notice to File Missing Parts Mailed on 20 November, 2003.

The petition is granted.

The above-identified application was filed on 7 August, 2003. On 20 November, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the oath or declaration was missing, and that the oath or declaration and a surcharge for its late filing must be filed within two (2) months to avoid abandonment.

In response, the present petition was filed on 29 December, 2003. Petitioners assert that an executed oath or declaration was present among the application papers filed on 7 August, 2003. In support, petitioners have supplied a copy of a postcard receipt itemizing the filing of 45 pages of oath or declaration.

While petitioners' postcard receipt does not serve as convincing evidence that the declaration was filed on 7 August, 2003, because it has not been stamped with an "Office-date" by the USPTO, a review of the official file reveals that 45 pages of executed oath or declaration were received in the USPTO on 7 August, 2003.

As an executed oath or declaration was timely received, the Notice mailed on 20 November, 2003, was mailed in error and is **vacated**.

As the petition was necessitated by an error on the part of the Office, the $130.00 petition fee will be refunded. Furthermore, the surcharge of $130.00 required by the Notice will be refunded. Both fees will be credited to counsel's deposit account, No. 23-2426, as authorized on the fee transmittal sheet filed on 29 December, 2003.

The application is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al :
Application No. 10/635,986 : DECISION GRANTING
Filed: August 7, 2003 :STATUS UNDER 37 CFR 1.47(a)
For: SYSTEM AND METHOD FOR :
REMOTE AUTOMATED PLAY OF A :
GAMING DEVICE

This is in response to the petition under 37 CFR 1.47(a), filed November 12, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor (Thomas M. Sparico) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

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

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THOMAS M. SPARICO
525 EAST 72ND STREET
APARTMENT 23F
NEW YORK, NY 10021

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of
Jay S. Walker; James A. Jorasch; Geoffrey M. Gelman; Jose A. Suarez; Thomas M. Sparico
Application No. 10/635,986
Filed: August 7, 2003
For: SYSTEM AND METHOD FOR REMOTE AUTOMATED PLAY OF A GAMING DEVICE

Dear Mr. Sparico:

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. 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).

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

cc:

Walker Digital
Five High Ridge Park
Stamford, CT 06905

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VP
PAPER NO. ___

JUN 18 2004

In re Application of
Scott M. Croce
Serial Number: 10/636,006
Filed: August 7, 2003
For: ANTI-TARNISH SILVER ALLOY

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed August 7, 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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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GARLICK HARRISON & MARKISON
LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

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OFFICE OF PETITIONS

In re Application of	:	
Shen et al.	:	
Application No. 10/636,008	:	DECISION
Filed: August 7, 2003	:	ON PETITION
Attorney Docket No. BP3018	:	
	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.78(a)(3) FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. § 120," filed August 25, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional Application no. 10/264,486. For the reasons set forth herein, this petition is also being treated as a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of provisional application No. 60/384,698, as set forth in the concurrently filed amendment.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) respectively. 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(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on August 7, 2003, and was pending at the time of the filing of the instant petition. Applicants acknowledge that the priority claim submitted on original filing was not in compliance with 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2). (The reference failed to state the relationship of application No. 10/264,486 to the instant application).

Moreover, a claim for priority to provisional application No. 60/384,698 was submitted on original filing. However, the claim was not perfected. Given the improper claim to application No. 10/264,486, the claim for priority to the provisional application could not be entered. Application No. 10/264,486 was a necessary intermediate application in the chain to satisfy the requirement that provisional application No. 60/384,698 not have been filed more than one year prior to the filing of a nonprovisional application that claims benefit to the provisional application.

On petition, references to the prior-filed nonprovisional and the prior-filed provisional application have been included in an amendment[1] to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii). This amendment was filed with this petition on August 25, 2004. The petition includes payment of the surcharge under § 1.17(t). Petitioner states that "the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(1)(ii) and the date the claim was filed (i.e., brought into compliance in this filing) was unintentional."

---

[1] This amendment is acceptable despite the inclusion of an incorporation by reference statement, because the application as filed included a statement incorporating by reference prior application No. 10/264,486.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application and prior-filed provisional application is submitted after expiration of the periods specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) respectively. Also, the references to the prior-filed applications were submitted during the pendency of the instant nonprovisional application. 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 application 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 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 119(e) and 37 CFR 1.78(a)(1) and (a)(2), 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 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 these benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 2133 for consideration by the Examiner of applicant's claim under 35 U.S.C. §§ 120 and 119(e), and 37 CFR 1.78(a)(1) and (2) and 1.78(a)(4) and (5) for the benefit of priority to the prior-filed applications.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles A. Pearson
Director
Office of Petitions

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OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of :
Palsulich, et al. : DECISION ON PETITION
Application No. 10/636,021 :
Filed: August 6, 2003 :
Docket No.: 108298727US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 28, 2007.

This application was held abandoned following the Pre-Brief Appeal Conference decision by the Board of Patent Appeals and Interferences mailed November 2, 2007. Notice of Abandonment was mailed December 6, 2007.

Petitioners argue in essence that the Notice of Abandonment was prematurely mailed as applicants had one month from the mail date of the Pre-Brief Appeal Conference decision to file an Appeal Brief, and that the period of time for submission of the appeal brief was extendible.

Petitioners' arguments have been carefully considered and found convincing.

A review of the Pre-Brief Appeal Conference decision indicates that "[a]pplicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable."

The time period applicable in this instance is based upon the mail date of the Pre-Brief Appeal Conference decision, as argued.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center Group Art Unit 1792 to await submission of applicants' appeal brief (and extension of time).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,202,918 :
Issued: April 10, 2007 :
Application No. 10/636,023 : NOTICE
Filed: August 7, 2003 :
Atty Docket No. LELI 3493 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Yvan LaFontaine
Application No. 10/636,029
Filed: August 7, 2003
Attorney Docket No. 77221.21540

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 29, 2005.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 21, 2005. A Notice of Abandonment was mailed on April 27, 2005. In response, on December 29, 2005, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the 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

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ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of :
Takeshi Murata :
Application No. 10/636,080 : DECISION ON PETITION
Filed: August 7, 2003 : TO WITHDRAW
Attorney Docket No. 13547 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 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 Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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AUG 21 2008

In re Application of	:	
Fu, Jennifer Jie	:	
Application No. 10/636,082	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. 200208209-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2179 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MICHAEL P. MORRIS
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900 RIDGEBURY RD
P.O. BOX 368
RIDGEFIELD, CT 06877-0368

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
Frank Himmelsbach, et. al. :
Application No. 10/636,088 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 1/1386 :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 13, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed November 2, 2006. A Notice of Abandonment was mailed on June 27, 2007.

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. Thus, in accordance with 37 CFR 1.34(a), the signature of Timothy X. Gibson 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. However, if Mr. Gibson desires to receive future correspondence regarding this application, the appropriate power of

attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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) a proper 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 1624, for processing of the RCE filed on July 13, 2007.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Timothy X. Gibson
Kaplan Gilman Gibson & Dernier, LLP
900 Route 9 North
Woodbridge, NJ 07095

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United States Patent and Trademark Office
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/28/2010

Applicant	: John W. Marshall	: DECISION ON REQUEST FOR
Patent Number	: 7640355	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/636,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AUG 26 2004

Director's Office
Group 3700

Ajit Singh Gill
4169 Bennion Road
Salt Lake City, UT 84119

In re application of
Ajit Singh Gill

Serial Number: 10/636106
Filed: August 6, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **INTEGRATED MULTIPURPOSE CAGE VALVE**

This is a decision on the petition filed on December 3, 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: 8/25/04

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Milwaukee, WI 53202-4497

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OFFICE OF PETITIONS

In re Application of
Rowley et al.
Application No. 10/636,109
Filed: August 7, 2003
Attorney Docket
No.700798.90116

:DECISION DISMISSING PTA
:RECONSIDERATION

This decision is in response to patentees' APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) filed on April 17,2006 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance from a determination of 268 days to a determination of 345 days.

Applicants' request regarding PTA is **DISMISSED**. **Applicants are given thirty days to respond to this PTA decision. No extensions of time will be granted under 37 CFR 1.136.** The correct amount of PTA at the time of the mailing of the notice of allowance is 283 days.

Applicants' assert that the Office erred in assessing an eighty-two (82) day reduction for the submission of IDS on February 27, 2006. Applicants assert that the reduction should not have been considered a failure to engage in reasonable efforts to conclude prosecution of the application because applicants meet the safe harbor provisions of 37 CFR 1.704(d). Applicants assert that the IDS was in response to a supplemental European Search Report issued on January 23, 2006 and was field within 30 days of receipt of the supplemental search report. Applicants also assert that their response was submitted on December 27, 2005 rather than the PALM entry date of December 07, 2005. Accordingly, applicants assert that their response was 5 days over the 3-month reply requirement of 37 CFR 1.704(b)

Patentees' assertion is are only persuasive to the extent herein indicated. As for the 5-day applicant delay, the Office is in agreement PALM inaccurately entered the date of December 07, 2005 rather that the correct date of December 27, 2005. Since the USPTO mailed the Office action on September 22, 2005, applicants response was five days beyond the three-month reply period. Accordingly, the Office will assess 5-days of additional applicant delay. As for the 82-day reduction, the Office notes that the reply was not mailed until December 27, 2005 and accordingly the IDS submission on February 27, 2005 amounted to 62-days of applicant delay. Applicants asserts that the delay under 37 CFR 1.704(c)(8) should be excused because applicants met

10/636,109

the requirements of 37 CFR 1.704(d).

Applicants needs to make a certification statement under 37 CFR 1.704(d). The statement should assert the following:

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.**

Applicants statement should mirror the language enumerated *supra*.

Applicants have cited that the IDS was in response to two different search reports (Supplemental search report mailed on 1/18/2006) and a supplemental European Search report issued on January 23, 2006. If applicants did receive two search report, then none of the references cited on February 27, 2004 could be from the 1/18/2006 search report because such reference would not meet the requirement that the item contained in the IDS was **FIRST** cited with 30 days of filing. Assuming *arguendo* that the references were either not cited in the 1/18/2006 report or such report did not exist, then the Office notes that the submission of the IDS on 2/27/2006 is still not within 30 days of the 1/23/2006 report. Accordingly, the Office cannot ascertain how applicants can make such 30-day statement.

Accordingly, the Office notes that the correct amount of PTA is 283 days at the time of the mailing of the notice of allowance. 350- (5 +62)=283).

The Office has assessed the $200.00 fee. No additional fees are required in deciding this request for reconsideration.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

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

cc: adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 9/6/2006
Time: 14:19:53

PTA Calculations for Application: 10/636109			
Application Filing Date:	08/07/2003	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	82
Post-Issue Petitions:	0	Total PTA (days):	283
PTO Delay Adjustment:	15		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	09/06/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	15		
37	03/30/2006	MAIL NOTICE OF ALLOWANCE			
36	03/28/2006	ISSUE REVISION COMPLETED			
35	03/28/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	03/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
33	03/28/2006	NOTICE OF ALLOWABILITY			
32	02/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	03/19/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	02/27/2006	REFERENCE CAPTURE ON IDS			
28	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		82	26
27	01/30/2006	DATE FORWARDED TO EXAMINER			
26	12/07/2005	RESPONSE AFTER NON-FINAL ACTION			
25	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/22/2005	MAIL NON-FINAL REJECTION	350		-1
23	09/20/2005	NON-FINAL REJECTION			
22	04/06/2005	MISCELLANEOUS INCOMING LETTER			
21	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	10/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

18	10/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	01/21/2004	APPLICATION RETURN FROM OIPE			
15	01/21/2004	APPLICATION RETURN TO OIPE			
14	01/21/2004	APPLICATION IS NOW COMPLETE			
13	01/20/2004	APPLICATION RETURN FROM OIPE			
12	01/20/2004	APPLICATION IS NOW COMPLETE			
11	12/08/2003	ADDITIONAL APPLICATION FILING FEES			
10	12/08/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	11/03/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
8	11/03/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	11/01/2003	APPLICATION RETURN TO OIPE			
6	11/01/2003	APPLICATION DISPATCHED FROM OIPE			
5	11/03/2003	APPLICATION IS NOW COMPLETE			
4	10/25/2003	CASE CLASSIFIED BY L&R			
3	10/25/2003	CLEARED BY OIPE CSR			
2	09/05/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/07/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PHILADELPHIA PA 19106-2399

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OFFICE OF PETITIONS

In re Application of :
Gaffney et al. :
Application No. 10/636,113 : DECISION ON PETITION
Filed: 7 August, 2003 :
Atty Docket No. A01229A :

This is a decision on the petition filed on 23 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[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)).

The application became abandoned on 10 June, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on 9 March, 2005. Notice of Abandonment was mailed on 6 September, 2005.

It is noted that the petition form states that payment of the petition fee is enclosed, although no petition fee was received. Nevertheless, as the Issue Fee Transmittal form received with the petition authorizes the charging of "the required fee(s)" the Issue Fee Transmittal form will be construed as authorizing the charging of the required petition fee to counsel's deposit account, No. 18-1850.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of :
Susuma Umezawa et al :
Application No.10/636,119 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket Number: 13546 :
Title of Invention: BOTTOM VALVE :
APPARATUS OF HYDRAULIC SHOCK :
ABSORBER

This is a decision on the petition filed January 28, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed August 25, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on January 18, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

It is noted that petitioner has filed a terminal disclaimer with the petition. A terminal disclaimer and the $130.00 terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. A review of the record shows that the above-identified application does not fall into any of the categories provided in 37 CFR 1.137(d). Accordingly, the terminal disclaimer will not be entered. If petitioner is of a contrary belief, the terminal disclaimer should be resubmitted.

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

Telephone inquiries 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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Paper No.

McGLINCHEY STAFFORD, PLLC
Attn: IP Group
301 Main Street, 14th Floor
BATON ROUGE LA 70802

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JUN 30 2010

OFFICE OF PETITIONS

In re Application of :
Phelps :
Application No. 10/636,125 : ON APPLICATION FOR
Filed: August 7, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. S-816 :
Title: METHOD OF ENHANCING :
VALUE OF PENSION PLAN ASSETS :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed February 3, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is two hundred and fifty-six (256) days, not eighty (80) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This 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.

Anthony Knight
Director
Office of Petitions

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Bever Hoffman & Harms, LLP
Tri-Valley Office
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Livermore, CA 94550

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OFFICE OF PETITIONS

In re Application of :

Bruce Rosenthal :
Application No. 10/636,143 : DECISION ON PETITION
Filed: August 6, 2003 : TO WITHDRAW
Attorney Docket No. AME-004 : 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 12, 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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Analog Microelectronics, Inc.**
3100 De La Cruz Blvd., Suite 201
Santa Clara, CA 95054-2402

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In re Application of	:	
Bruce Rosenthal	:	
Application No. 10/636,143	:	DECISION ON PETITION
Filed: August 6, 2003	:	TO WITHDRAW
Attorney Docket No. AME-004	:	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 15, 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 Jeanette S. Harms on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed February 6, 2007.

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: **Analog Micro**
3100 De La Cruz Blvd.
Suite 201
Santa Clara, CA 95054

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Silverbrook, et al. : REQUIREMENT FOR COMPLIANCE
Application No. 10/636,203 :
Filed: August 8, 2003 :
Docket No.: ZF124US :

The above-referenced application file was recently forwarded to the Office of Petitions for review of the paper regarding entity status that was filed December 9, 2004.

The payment of fee deficiency lacks itemization of the deficiency of the deficiency payment as required under 37 CFR 1.28(c)(2)(ii).

Under 37 CFR 1.28(c)(3), the failure to comply with the requirements of 37 CFR 1.28(c)(1) and (c)(2) permits the Office at its option to either charge a processing fee (37 CFR 1.17(i)) to process the paper or require compliance within a one-month non-extendable time period to avoid return of the paper.

Thus, in accordance with 37 CFR 1.28(c)(3), applicants are given a one (1) month non-extendible period of time in which to submit a payment of fee deficiency in full compliance with 37 CFR 1.28(c)(2).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier 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 concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JUN 09 2005

OFFICE OF PETITIONS

In re Application of :
Silverbrook, et al. : REQUIREMENT FOR COMPLIANCE
Application No. 10/636,203 :
Filed: August 8, 2003 :
Docket No.: ZF124US :

The above-referenced application file was recently forwarded to the Office of Petitions for review of the paper regarding entity status that was filed March 21, 2005.

As previously stated in the decision mailed March 16, 2005, the payment of fee deficiency lacks itemization of the deficiency of the deficiency payment as required under 37 CFR 1.28(c)(2)(ii).

Under 37 CFR 1.28(c)(3), the failure to comply with the requirements of 37 CFR 1.28(c)(1) and (c)(2) permits the Office at its option to either charge a processing fee (37 CFR 1.17(i)) to process the paper or require compliance within a one-month non-extendable time period to avoid return of the paper.

Thus, in accordance with 37 CFR 1.28(c)(3), applicants are given a one (1) month non-extendible period of time in which to submit a payment of fee deficiency in full compliance with 37 CFR 1.28(c)(2).

Any further reply MUST include the required itemization (see 37 CFR 1.28(c)(1) and (c)(2) **or** the processing fee set forth at 37 CFR 1.17(i), currently $130.00.

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

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

By facsimile: (703) 872-9306

By hand delivery or courier service(FedEx, UPS, DHL, etc.):

U.S. Patent and Trademark Office
Customer Service 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

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OFFICE OF PETITIONS

In re Application of :
Silverbrook, et al. :
Application No. 10/636,203 : NOTICE
Filed: August 8, 2003 :
Docket No.: ZF124US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 20, 2004, March 31, 2005, and July 1, 2005.

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

The change of status to a large entity has been entered and made of record.

It is noted for the record that applicants, in lieu of a statement of itemization, have elected to submit the $130.00 processing fee.

This file is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 01-05

Paper No: __

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OFFICE OF PETITIONS

In re Application of
Silverbrook :
Application No. 10/636,206 :
Filing Date: 8 August, 2003
Attorney Docket No. ZF146US :

This is a decision on the petition filed on 11 November, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision 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(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees) mailed on 7 November 2003, with reply due absent extension of time on or before 7 January, 2004;

- the Application went abandoned after midnight 7 January, 2004;

- the Office mailed a Notice of Abandonment on 26 October, 2004;

- the instant petition was filed with fee, and statement of unintentional delay on 18 November, 2004, however, in the period between the mailing of the Notice of Missing Parts and Petitioner's payment, fees have increased, and at this writing only $230.00 of the now $360.00 fee for multiple dependent claims has been paid (NOTE: fees have increased since the 19 November, 2004, mailing of fee deficiency).

Thus, Petitioner has not satisfied the "reply" requirement of the regulation.

As a matter of inquiry to Petitioner, it should be asked whether Petitioner is prosecuting the instant application as a Small Entity, for it seems that Petitioner presently is paying fees as a not-small entity (i.e., full fees). Petitioner is reminded that the current fee schedule can be found at the Office website www.uspto.gov

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]

---

[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.

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, 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.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has failed to satisfy the reply requirement (in this case, payment of all fees due).

CONCLUSION

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

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

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] 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] 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.

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

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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JJGJR.: 03-05

Paper No: __

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OFFICE OF PETITIONS

In re Application of
Silverbrook :
Application No. 10/636,206 :
Filing Date: 8 August, 2003
Attorney Docket No. ZF146US :

This is a decision on the petition filed on 17 February, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees) mailed on 7 November 2003, with reply due absent extension of time on or before 7 January, 2004;
- the Application went abandoned after midnight 7 January, 2004;
- the Office mailed a Notice of Abandonment on 26 October, 2004;
- the original petition was filed with fee, and statement of unintentional delay on 18 November, 2004, but was dismissed on 27 January, 2005, because in the period between

the mailing of the Notice of Missing Parts and Petitioner's payment fees were increased and Petitioner submitted insufficient amounts under the new schedule;

- as of this writing the fee deficiency has been remedied with the renewed petition.

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, 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.[6]))

---

[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] 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.

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

Petitioner has satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to OIPE for further processing before being forwarded for examination 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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Kia Silverbrook
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of :
Paul Lapstun, et al. : DECISION ON PETITION
Application No.: 10/636,211 :
Filed: August 8, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: IP27US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 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 "Notice to File Missing Parts of Non-Provisional Application" mailed November 7, 2003 which set a two month period for reply. No extensions of time under provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on January 8, 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 appropriate; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the "Notice to File Missing Parts of Non-Provisional Application" of November 7, 2003 is accepted as having been unintentionally delayed.

The application is being referred to Office of Initial Patent Examination (OIPE).

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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OFFICE OF PETITIONS

In re Application of :
Paul Lapstun, et al. :
Application No. 10/636,227 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. IP19US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 March 9, 2006. A Notice of Abandonment was mailed on November 27, 2006. In response, on January 5, 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 a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and 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 2853 for further processing the RCE 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

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Commissioner for Patents
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Date :05/16/07

Patent No. : 7083254 B2
Ser. No. : 10/636,250
Inventor(s) : SILVERBROOK, KIA
Issued : 08/01/06
Title : **PRINTING CARTRIDGE WITH BARCODE IDENTIFICATION**
Docket No. : PP32US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

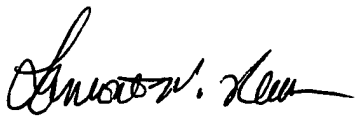
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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



Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

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OFFICE OF PETITIONS

In re Patent No. 7,083,254 :
Issue Date: August 1, 2006 :
Application No. 10/636,250 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. PP32US :

This is a decision on the petition filed October 31, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

The $130 petition fee and the $100 Certification of Correction received on October 31, 2007 were previously paid on May 3, 2007. Petitioner may request a refund of these fees by writing to the Office of Finance, Mail Stop 16 refund requests. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook et al :
Application No. 10/636,254 :
Filed: August 8, 2003 :
Attorney Docket No. PP28US :

ON PETITION

This is a decision on the petition, filed November 15, 2004, under 37 CFR 1.137(b) 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.

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 November 10, 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 11, 2004.

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(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) (2).

The Notice To File Missing Parts of Nonprovisional Application mailed November 10, 2003 request $60 to complete the basic filing fee for the non-small entity and $130 for the surcharge as set forth in 37 CFR 1.16(e). Effective October 1, 2004, the Basic filing fee for the non-small entity increase to $790 and the Petition for Revival of an Application for Patent Abandoned Unintentionally increase to $1370. Petitioner submitted $1520 with the petition on November

15, 2004, which leaves a balance of $60. Accordingly, the petition to revive cannot be granted until the $60 balance has been received.

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
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/7/06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10636255 Patent No.: 6959981

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**.

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041
AUSTRALIA

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Walmsley :
Application No. 10/636,263 : DECISION ON PETITION
Filed: August 8, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AUTH18US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 3, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

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. 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 nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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 3692 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/636,263	08/08/2003	3692	1176	AUTH18US	27	2

CONFIRMATION NO. 8510

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 02/06/2009

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)

Simon Robert Walmsley, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/517,608 03/02/2000 PAT 7,246,098
which is a DIV of 09/113,223 07/10/1998 PAT 6,442,525

Foreign Applications

AUSTRALIA PO 7991 07/15/1997

If Required, Foreign Filing License Granted: 11/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/636,263**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

AUTHENTICATION OF CONSUMABLE ITEMS

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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MAY 26 2004

Director's Office
Group 3700

Quill & Disc Incorporated
30844 NE 1st Avenue
St. Joseph, MN 56374

In re application of : **DECISION ON PETITION**
Merton & Charles Anderson : **TO MAKE SPECIAL**
: **UNDER 37 CFR. 1.102(c)**

Serial Number: 10/636291 :
Filed: August 5, 2003 :

For: **CORN BURNER**

This is a decision on the petition filed on August 5, 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: 5/25/04

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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth Lee Underwood :
Application No. 10/636,302 : DECISION ON PETITION
Filed: August 06, 2003 : TO WITHDRAW
Attorney Docket No. 1395-PA01 : 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 15, 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 attorneys/agents associated with application. 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 Kevin A. Buford attorney/agent of record on behalf of himself.

Kevin A. Buford has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-329

David Bucci
Petitions Examiner
Office of Petition

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MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of

Ferranti, et al.

Application No. 10/636,309

Filed: August 7, 2003

Attorney Docket No. F086

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed July 19, 2005. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on December 19, 2005, along with a request for an extension of time within the second month. On January 19, 2006, a "Notice of Improper RCE" was mailed noting that the response filed December 19, 2005, was not acceptable because it lacked the submission required by 37 CFR 1.114. No further responses were received within the allowable period and the application became abandoned on December 20, 2005.

The Request for Continued Examination and amendment filed January 27, 2006, are noted and made of record.

The application file is being forwarded to Technology Center 1700, GAU 1762 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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MAY 01 2007

OFFICE OF PETITIONS

In re Application of :
Brown et al. :
Application No. 10/636312 : ON PETITION
Filing or 371(c) Date: 08/06/2003 :
Attorney Docket Number: :
4220-51-C2 :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed February 21, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 23, 2005. The Office action set a three (3) month period for reply.

Applicant filed a Notice of Appeal and an Extension of Time request and fee, on June 23, 2006; however, the appeal brief was not filed within the time designated in 37 CFR 41.37. Accordingly, the appeal stood dismissed. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition, Request for Continued Examination and fee, and a Submission in the form of an Amendment and a Terminal Disclaimer. Accordingly, the petition is granted.

The application is being referred to Technology Center Art Unit 1625 for processing of the RCE and Submission.

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

Derek L. Woods
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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,313	08/07/2003	David W. McSurdy JR.	372123-101	9922

25561 7590 09/19/2005

JOHN W. RYAN
C/O DECHERT LLP
PRINCETON PIKE CORPORATION CENTER
P.O. BOX 5218
PRINCETON, NJ 08543-5218

EXAMINER	
LEWIS, RALPH A	

ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 09/19/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN W. RYAN
C/O DECHERT LLP
PRINCETON PIKE CORPORATION CENTER
P.O. BOX 5218
PRINCETON NJ 08543-5218

In re Application of	:	
David W. McSurdy, Jr.	:	DECISION ON PETITION
Serial No. : 10/636,313	:	TO ACCEPT
Filed : August 7, 2003	:	COLOR DRAWINGS
For : System and Method for Palatal Expansion	:	

This is a decision on petitioner's request filed February 9, 2004 to accept color drawings.

Under 37 CFR 1.84(a)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Applicant has failed to comply with items (c) and (d) noted above. Requirement (c) for a black and white photocopy of the color drawings has been waived. See 1246 O.G. 106 (May 22, 2001). However, item (d) is still required. Accordingly the petition to accept color drawings is dismissed.

Summary: Petition to accept color drawings dismissed.

Kevin P. Shaver

Kevin P. Shaver, SPE
Art Unit 3732
Phone: (571) 272-4720

ks/09/14/05

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Pieder BEELI et al. :
Application No. 10/636,317 : DECISION ON PETITION
Filed: August 07, 2003 :
Attorney Docket No. **03008/02UTL** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 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, March 23, 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 June 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office Action is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1751 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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OFFICE OF PETITIONS

In re Application of

Guo-Meng Zhao :

Application No. 10/636,318 :

: DECISION ON PETITION

Filed: August 7, 2003 :

Attorney Docket No. 03008/01UTL

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2007, 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 January 25, 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 April 26, 2006. A Notice of Abandonment was mailed on August 23, 2006.

The amendment filed January 18, 2007, is noted.

The application is being forwarded to Technology Center 1700, GAU 1754 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

OIPE
JUL 19 2004
TECH 2 TRADEMARK

IFW

Patent / Docket No. 29300.31
Customer No. 000027684

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC151
JUL 19 2004
TRADEMARK OFFICE

Applicant:	Hill, et al	§	
		§	Group Art Unit: 1733
Serial No.:	10/636,354	§	
		§	
Filed:	8/07/2003	§	Examiner: Johnstone, Adrienne C.
		§	
For:	SOLID RUBBER TIRE	§	
		§	

Approved DEC - 3 2004
Jacqueline M. Stone, Director
Technology Center 1700

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

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD
(37 C.F.R. § 10.40)

The attorneys listed below have been appointed to prosecute and transact business in the above-referenced case:

Todd Mattingly (Reg. No. 40,297); David L. McCombs (Reg. No. 32,271); Jeffrey M. Becker (Reg. No. 35,442); J. R. Bell (Reg. No. 26,528); Timothy Bliss (Reg. No. 50,925); Randall C. Brown (Reg. No. 31,231); Randall E. Colson (Reg. No. 40,566); Michael A. Davis Jr. (Reg. No. 35,488); Andrew S. Ehmke (Reg. No. 50,271); Rita M. Irani (Reg. No. 31,028); Warren B. Kice (Reg. No. 22,732); David O'Dell (Reg. No. 42,044); William Hickman (Reg. No. 46,771); Haynes and Boone, LLP., 1000 Louisiana, Suite 4300, Houston, Texas 77002.

On behalf of the above-listed attorneys, I respectfully request that the above-listed attorneys be granted permission to withdraw from all further responsibility in this case in accordance with 37 C.F.R. § 1.36.

The basis for the request for withdrawal is 37 C.F.R. § 10.40(b) section 4, namely, the client informed us that our services were no longer needed.

Status of this Application: PENDING

All papers and property concerning this application have been delivered to the new counsel identified above.

Respectfully submitted,

James R. Bell
Registration No. 26,528

Date: June 29, 2004

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Direct Phone: 214-651-5066
Direct Fax: 214-200-0853
File: 29300.31

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
on July 15 2004

D 1253200.1

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NAVIGATION TECHNOLOGIES
222 MERCHANDISE MART
SUITE 900, PATENT DEPARTMENT
CHICAGO, IL 60654

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Ildiko Hegedus et al :
Application No. 10/636,362 : DECISION GRANTING PETITION
Filed: August 7, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. N0170US :

This is a decision on the petition, filed July 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 April 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3663 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

---

[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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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Mail Date: 06/03/2010

Applicant	: Steven A. Wright	: DECISION ON REQUEST FOR
Patent Number	: 7630412	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/636,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/29/2010

Applicant	: Navindra Yadav	: DECISION ON REQUEST FOR
Patent Number	: 7610485	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/636,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1754** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-2-08 **Paper No.:** _____

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7235715 (10/636386

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.

Claims are confusing. Please reply ASAP Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

The changes correct typographical errors and restore the wording of the claims as allowed. Claim scope is unaffected.

_____ 1638
SPE **Art Unit**

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SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS, IA 52406

In re application of
Wilfred Yeggy
Application No. 10/636,414
Filed: August 07, 2003
For: TILL TRACK VEHICLE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on August 31, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Yeggy is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

KJD/slb: 11/08/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 11, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/636415 Patent No.: 6,943,084 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: _____

_____

_____

_____

_____

_____ 2812

SPE **Art Unit**

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Gilbert W. Rudman
ATOFINA Chemicals, Inc.
2000 Market Street
Philadelphia, PA 19103

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Michael D. Gernon, et al. :
Application No. 10/636,428 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. IR 3693 NP

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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 a continuing application purported filed on July 14, 2004

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-9220.

The application file is being forwarded to Files Repository.

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

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JONATHAN P. OSHA
OSHA--LIANG LLP
SUITE 2800
1221 MCKINNEY ST.
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Patent No. 7,037,052	:	
Tatsuya Yamamoto	:	DECISION ON REQUEST
Issue Date: 2 May, 2006	:	FOR RECONSIDERATION OF
Application No. 10/636,433	:	PATENT TERM ADJUSTMENT
Filed: 7 August, 2003	:	and
Atty Docket No. 04995/115001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed 27 April, 2006. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 236 days.

The request for reconsideration of the patent term adjustment indicated in the patent 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 two hundred thirty-six (236) days.

On 2 May, 2006, the above-identified application matured into U.S. Patent No. 7,037,052. The instant request for

reconsideration filed 27 April, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 180 days. Patentees contend that there were no circumstances within this case history that constitute a failure by the Patentee to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR § 1.704. In essence, Patentee's dispute the sole reduction of record, one for 56 days associated with the filing of a "miscellaneous incoming letter" received in the Office on 8 March, 2006. Patentee states that the paper filed with the response to the notice of allowance was a "Change of Firm Name" requesting a change of address and thus, no reduction is warranted.

Patentee's contention is well taken. 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).

In view thereof, the patent term adjustment indicated on the patent should be two hundred thirty-six (236) days.

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 TWO HUNDRED THIRTY-SIX (236) 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

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INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of
Gianluca Paladini et al.
Application No. 10/636,434
Filed: August 7, 2003
Attorney's Docket No. 2001P05355US

: DECISION GRANTING PETITION

This is a decision on the petition filed December 12, 2003, under 37 CFR 1.10(e), in response to the "Notice of Incomplete Nonprovisional Application" mailed November 5, 2003, and to accord the above-identified application a filing date of August 7, 2003. This petition is treated under 37 CFR 1.53.

On August 7, 2003. On November 5, 2003, however, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on December 12, 2003, the present petition was filed, accompanied by seven (7) sheets of drawings. Petitioners argue that the application should be accorded a filing date of 14 May, 2001, because (a) the application was deposited with drawings. In support of petitioner's contention that seven (7) sheets of drawings were filed with the other application papers deposited on August 7, 2003, petitioner has provided, *inter alia*, a copy of the Express Mail Label No. EV335643556US and dated 8/7/03 by the USPS and a copy of the itemized postcard receipt filed with the application papers deposited on August 7, 2003, but the postcard is not date-stamped.

The arguments and evidence supplied with the petition have been carefully considered, but are not persuasive. The Express Mail label is not persuasive evidence of the receipt of the 7 sheets of drawings on August 7, 2003 because the other application papers filed by Express Mail were received on August 7, 2003. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence. A petition under 37 CFR 1.10 is therefore inappropriate in the present case.[1] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

Additionally, at best, the application transmittal sheet and counsel's records show that petitioners' counsel *intended* to file, via Express Mail, the drawings in question on August 7, 2003, but the evidence, unfortunately, does not show that the USPTO received the drawings on August 7, 2003. The receipt of the other application papers on August 7, 2003, furthermore, does not support a finding that the drawings, were also received at the USPTO on August 7, 2003.

[1] MPEP 513.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[2] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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.

As additional proof, petitioners have provided an itemized return receipt postcard that was submitted with the application papers deposited on August 7, 2003, but the postcard is not date-stamped, thus will not serve as proof of filing 7 sheets of drawings. While this is certainly a most unfortunate situation, petitioners simply have no evidence supporting their contention that the application as filed on August 7, 2003, included a drawings.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. 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. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[3]

The return postcard procedure described at MPEP 503 provides a basis by which petitioner may show that an application or parts thereof were received in the USPTO on a given date, and that the application is therefore entitled to a filing date of the date that the application, or parts thereof, were deposited in the USPTO. Petitioner, however, has not provided an itemized postcard showing that the drawings in question were deposited in the USPTO on 14 May, 2001. Although petitioner's mail log is shows that petitioner intended to file four (4) sheets of drawings with the other application papers deposited on 14 May, 2001, it is not persuasive evidence that the four (4) sheets of drawings petitioner intended to file were actually received in the USPTO on that date. In summary, petitioner simply has no proof that the drawings were among the papers deposited in the USPTO on the requested filing date.

A review of the record reveals that no drawings are located among the application papers deposited on August 7, 2003. Furthermore, petitioner has not provided sufficient proof that the drawings were deposited in the USPTO with the other application papers on August 7, 2003.

It is however the USPTO 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

---

[2] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[3] MPEP 503.

understanding of the invention under 35 U.S.C. 113 (first sentence).[4] A review of the record reveals that the application contains at least one method claim. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is **GRANTED**. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 19-2179.

The "Notice of Incomplete Nonprovisional Application" mailed on November 5, 2003, was sent in error and is hereby **vacated**.

The seven (7) sheets of drawings filed with the present petition will not be entered and will not be used during examination.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 7, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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] MPEP 601.01(f).

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SHOOK, HARDY & BACON L.L.P.
CHASE TOWER, SUITE 1600
600 TRAVIS STREET
HOUSTON TX 77002-2911

In re Application of
Sean Spicer
Application No. 10/636,441
Filed: August 6, 2003
For: **SYSTEM AND METHOD FOR APPLYING ACCURATE THREE-DIMENSIONAL VOLUME TEXTURES TO ARBITRARY TRIANGULATED SURFACES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed August 6, 2003 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), 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. Such petitions should be accompanied by statements under 37 C.F.R. § 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) or (B) set forth above.

The petitioner has met 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Morgan Hua et al.
Application No. 10/636,461
Filed: August 6, 2003
Attorney Docket No. AOL0105

This is a decision on the petition under 37 CFR 1.182 filed March 5, 2004, requesting that the above-identified application be accorded a filing date of August 6, 2003, with one (1) sheet of drawings containing Figure 5 as a part of the original disclosure.

The petition is **DISMISSED**.

On August 6, 2003, the application was filed. On February 4, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application, "Notice", stating that Figure 5 described in the specification appeared to have been omitted.

In response, on March 5, 2004, the present petition was filed. Petitioners concede that Figure 5 was inadvertently omitted from the application papers filed on August 6, 2003, but request that the application nonetheless be accorded a filing date of August 6, 2003, with Figure 5 as a part of the original disclosure.

As Figure 5 was admittedly not among the papers filed on August 6, 2003, the application is not entitled a filing date of August 6, 2003, with Figure 5, as a part of the original disclosure.[1]

However, the decision of *Ex parte Snyder*,[2] holds that amendments to the specification and drawings may be made provided that new matter is not introduced. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[3]

The preliminary amendment filed March 5, 2004 is acknowledged.

The application will be processed and scanned using only the application papers present on August 6, 2003. The one (1) sheet of drawings containing Figure 5 and the preliminary amendment filed March 5, 2004, will be examined by the examiner.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 6, 2003, using the application papers filed on that date. Thereafter, the application will be forwarded to Technology Center 2661 for a examination in due course with a specific review of Figure 5 and the preliminary amendment filed March 5, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] 35 U.S.C. § 21.

[2] 22 Dec. Comm'r Pat. 23 (1882).

[3] 37 CFR 1.121(b).

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PATENT COUNSEL
APPLIED MATHERIALS, INC.
P.O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of :
Mui et al. :
Application No. 10/636,468 : DECISION ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. :
APPM/8009/ETCH/SILICON/JB

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of July 31, 2007 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 October 1, 2007. *See* MPEP 1214.06. A Notice of Abandonment was mailed November 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

The file is now being forwarded to Technology Center 2812 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Patterson & Sheridan, LLP
595 Shrewsbury Avenue. Suite 100
Shrewsbury, NJ 07702

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Paper No.

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

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JAN 29 2010

In re Application of	:	
Pickering et al.	:	
Application No. 10/636,470	:	DECISION ON PETITION
Filed: August 7, 2003	:	PURSUANT TO
Attorney Docket No.: H10372/CFR	:	37 C.F.R. § 1.181
Title: SLEEVED FUSER MEMBER	:	

This is a decision on the petition filed March 26, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned due to the September 30, 2008 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on December 1, 2008, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on March 20, 2009.

With this petition, Petitioner has asserted that the holding of abandonment should be withdrawn due to the fact that a Request for Rehearing was filed on November 26, 2008, and a decision from the Board for Patent Appeals and Interferences was mailed on January 29, 2009.

The electronic record has been reviewed, and it is noted that a Request for Rehearing was filed on November 26, 2008, prior to the expiration of the period for seeking judicial review of the decision of the Board for Patent Appeals and Interferences.

A decision from the Board for Patent Appeals and Interferences was mailed on January 29, 2009, and as such,

1 See MPEP § 1216.

Petitioner had until March 29, 2009 to file a response. It is noted that both an amendment and a Request for Continued Examination (RCE) were filed on March 27, 2009, in response to the January 29, 2009 decision by the Board for Patent Appeals and Interferences, pursuant to 37 C.F.R. § 1.114(a)(3).

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 timely submission was 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, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on March 27, 2009 - can be processed in due course.

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

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

---

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).

NOTICE RE: CERTIFICATES OF CORRECTION

Saeed, Kamal (AU1626)

From: McKane, Joseph
Sent: Monday, June 01, 2009 8:52 AM
To: Saeed, Kamal (AU1626)
Subject: FW: 10636474

Please let me know - this is Deborah's case - thanks.

From: Newsome, Lamonte
Sent: Friday, May 29, 2009 5:30 PM
To: McKane, Joseph
Subject: 10636474

Paper No.: _____

DATE : 5/29/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10636474 Patent No.: 7312219 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

NOTICE RE: CERTIFICATES OF CORRECTION

Thank You For Your Assistance

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

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

Comments:

SPE
Art Unit
1626

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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United States Patent and Trademark Office
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STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Rajiv LAROIA et al. :
Application No. 10/636,482 : DECISION ON PETITION
Filed: August 07, 2003 :
Attorney Docket No. Flarion-53APP2 (81/2) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 19, 2007, which set a shortened statutory period for reply of three (3) months. 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A three (3) 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 October 20, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 19, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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Joseph Francis Murphy
101 West 23rd Street
Suite 2367
New York, NY 10011

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of

Mara Zuckerman
Application No. 10/636,488
Filed: August 7, 2003
Attorney Docket No. LOJM-1954

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the non-final Office action mailed on February 7, 2007.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Ms. Mara Zuckerman
445 East 80th Street, 3K
New York, NY 10021

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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JUN 19 2009

OFFICE OF PETITIONS

In re Application :
Alattar, et al. :
Application No. 10/636,505 : PATENT TERM ADJUSTMENT
Filed: August 6, 2003 :
Dkt. No.: P0860 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT (Request for reconsideration of PTO's Patent Term Adjustment Determination) (37 CFR 1.705(b))." The application for patent term adjustment was timely filed along with the issue fee payment on February 18, 2009.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed December 9, 2008, indicates a patent term adjustment to date of 806 days. Applicants do not contest the adjustment accorded to date of 806 days (adjustment totalling 910 days less reductions totalling 104 days).

Instead, applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the

patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
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In re Patent No. 7,567,721
Issued: July 28, 2009
Application No. 10/636,505
Filed: August 6, 2003
Attorney Docket No. P0860

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "RENEWED APPLICATION FOR PATENT TERM ADJUSTMENT (Request for Reconsideration of PTO's Patent Term Adjustment Determination) (37 CFR 1.705(d))" filed July 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred four (804) days to one thousand three hundred fifty-three (1353) days.

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

On July 28, 2009, the above-identified application matured into US Patent No. 7,567,721 with a patent term adjustment of 804 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) previously paid on February 18, 2009. No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a patent term adjustment of 1353 days (910 days under 37 CFR 1.702(a) + 830 days under 37 CFR 1.702(b) - 241 days of overlap - 146 days for applicant delay).

The 830-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 6, 2003 and a request for continued examination (RCE) having being filed on November 13, 2008. The filing of an RCE cuts-off the applicants' 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).

The Office agrees that at the time that the RCE was filed on November 13, 2008, the application was pending three years and 830 days. The Office agrees that certain action was not taken within the specified time frames, and thus, a period of adjustment of 910 days for Office delay was entered. At issue is whether patentees should accrue 830 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 910 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that the entire 830-day period overlaps. 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, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(I)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(I)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(I)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to*

Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the 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 period during which the application was pending before the Office, August 6, 2003, to the date the RCE was filed on November 13, 2008. Prior to the filing of the RCE, 910 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 830 days for Office delay in issuing the patent overlap with the 910 days of Office delay. As the Office did not delay 910 days and also delay 830 days, entry of both periods is not warranted. Thus, 910 days was determined to be the actual number of days that the issuance of the patent was delayed as of November 13, 2008, the date that the RCE was filed. Accordingly, at issuance, the Office properly did not enter any additional days of patent term adjustment.

In view thereof, the no adjustment to the patent term adjustment of 804 days will be made.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Eddie Liao
M2 NETWORKS, INC.
2345 Adair Street
San Marino CA 91108

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AUG 15 2008

In re Application of	:	
James A. Crawford	:	
Application No.: 10/636512	:	DECISION ON
Filing or 371(c) Date: 08/06/2003	:	PETITION
Attorney Docket Number: 81607	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed June 23, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed July 11, 2007. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 12, 2007. A Notice of Abandonment was mailed February 5, 2008.

Applicant files the present petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Power of Attorney filed with the petition has NOT been entered because there is no evidence that the person signing the Power of Attorney is authorized to act on behalf of the assignee. 37 CFR 3.73, Establishing right of assignee to take action, states in relevant part:

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.
> (b) (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office.
For patent matters only, the submission of the documentary evidence must be accompanied by 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).
(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.
(c) For patent matters only:
(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Further to this, the MPEP 324 states:

V. PARTY WHO MUST SIGN
The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager " or "Director " is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed

by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.
(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).
(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.
Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Before the POA may be entered, evidence of the authority of the person signing the POA is required.

This application is being referred to Technology Center Art Unit 2611 for processing of the reply to the Notice filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: GARY LEE EASTMAN
707 BROADWAY STREET
SUITE 1800
SAN DIEGO, CA 92101

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JUN 14 2004

OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

In re Application of	:	
Jay S. Walker et al	:	
Application No. 10/636,520	:	DECISION GRANTING STATUS
Filed: August 7, 2003	:	UNDER 37 CFR 1.47(A)
For: SYSTEM AND METHOD FOR	:	
COMMUNICATING GAME SESSION	:	
INFORMATION	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 9, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 3714 for examination in due course.

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

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THOMAS M. SPARICO
525 EAST 72ND STREET
APARTMENT 23F
NEW YORK, NY 10021

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Walker; Jorasch; Gelman; Fincham; Santisi; Gilman; and Sparico
Application No. 10/636,520
Filed: August 7, 2003
For: SYSTEM AND METHOD FOR COMMUNICATING GAME SESSION INFORMATION

Dear Mr. Sparico:

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. 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).

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

cc:
WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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COMMISSIONER FOR PATENTS
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MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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APR 16 2004

OFFICE OF PETITIONS

In re Application of
Shinichi Abe et al.
Application No. 10/636,528
Filed: October 8, 2003
Attorney Docket No. KY-192

DECISION ON
PETITION

This is a decision on the petition filed March 4, 2004, under 37 CFR 1.53, requesting a filing date of August 8, 2003 for the above identified application.

Application papers in the above-identified application were filed on October 8, 2003. However, on January 6, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification as prescribed by 35 U.S.C. 112 had not been filed. The Notice indicated that a Specification with at least one claim was required.

In response to the Notice mailed January 6, 2004, petitioner properly proffered a copy of a date stamped return receipt which corroborated petitioners assertion that the application had been filed with a specification, one page in length.

Copies of the missing pages of the specification (4) which includes twelve (12) claims and are numbered 18- 21, the abstract numbered page 22 and oath and declaration have also been submitted thus satisfying the requirements as set out in the Notice mailed January 6, 2004 and thus completes the application.

In view of the foregoing, the petition under **37 CFR 1.53 is GRANTED**.

Given the basis for granting the petition, the petition fee will be refunded to deposit account no. 50-1417 as requested.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date and a correction of PTO records to show that the specification was submitted with the application on filing.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 8, 2003, using the application papers received in the Office on that date and the four pages of specification that includes twelve (12) claims, resubmitted on petition. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA VA 22314

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Shinichi Abe et al.
Application No. 10/636,528
Filed: August 8, 2003
Attorney Docket No. KY-192

CORRECTED
DECISION ON
PETITION

This is a decision on the petition filed March 4, 2004, under 37 CFR 1.53, requesting a filing date of August 8, 2003 for the above identified application.

Application papers in the above-identified application were filed on August 8, 2003. However, on January 6, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification as prescribed by 35 U.S.C. 112 had not been filed. The Notice indicated that a Specification with at least one claim was required.

In response to the Notice mailed January 6, 2004, petitioner properly proffered a copy of a date stamped return receipt which corroborated petitioners' assertion that the application had been filed with a specification, one page in length.

Copies of the missing pages of the specification (4) which includes twelve (12) claims and are numbered 18- 21, the abstract numbered page 22 and oath and declaration have also been submitted thus satisfying the requirements as set out in the Notice mailed January 6, 2004 and thus completes the application.

In view of the foregoing, the petition under **37 CFR 1.53 is GRANTED**.

Given the basis for granting the petition, the petition fee will be refunded to deposit account no. 50-1417 as requested.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date and a correction of PTO records to show that the specification was submitted with the application on filing.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of August 8, 2003, using the application papers received in the Office on that date and the four pages of specification that includes twelve (12) claims, resubmitted on petition. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

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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JAN 30 2006

OFFICE OF PETITIONS

STEVENS, DAVIS, MILLER & MOSHER
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20043-4387

In re Application of	:	
Toshiyuki Fukuda et al	:	
Application No. 10/636,595	:	ON PETITION
Filed: August 8, 2003	:	
Attorney Docket No. L8462.03108	:	

This is a decision on the petition, filed January 30, 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 November 16, 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 2813 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. _____

Date : January 30, 2006

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JAN 30 2006
OFFICE OF PETITIONS

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Toshiyuki Fukuda et al
Application No. :10/636,595
Filed :August 8, 2003

The above-identified application has been assigned Patent No. 6,991,962 and an issue date of January 31, 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 January 31, 2006:

"All reference to Patent No. 6,991,962 to Toshiyuki Fukuda et al of Japan for SEMICONDUCTOR DEVICE AND MANUFACTURING METHOD FOR THE SAME appearing in the Official Gazette of January 31, 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
Tamara Greene, ST-8C13

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,600	08/08/2003	Miguel Octavio Suarez-Cervieri	PF0000054791/FC	9391

26474 7590 03/12/2008

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

EXAMINER	
SULLIVAN, DANIELLE D	
ART UNIT	**PAPER NUMBER**
1616	

MAIL DATE	DELIVERY MODE
03/12/2008	PAPER

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

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

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MAR 1 2 2008

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

In re Application of:	:
Suarez-Cervieri et al.	:
Serial No.: 10/636,600	: PETITION DECISION
Filed: August 8, 2003	:
Attorney Docket No.:	:
PF0000054791/FC	

This is in response to the petition under 37 CFR § 1.181, filed March 4, 2008, requesting that the finality of the Office action of February 27, 2008 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on June 1, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-6 were pending and were examined on their merits. The examiner rejected claims 1 and 4 under 35 U.S.C. 102(b) as being anticipated by Hoefle et al. (US 6,197,802), as evidenced by the Merriam-Webster Online Dictionary; rejected claims 1-3 under 35 U.S.C. 102(a) as being anticipated by Miles et al (June, 2003), rejected claims 4-5 under 35 U.S.C. 103(a) as being unpatentable over Miles et al. in view of Selvig et al. and Knight et al. (1997); and rejected claim 6 under 35 U.S.C. 103(a) as being unpatentable over Hoefle et al. and Miles et al. in view of the U.S. EPA Federal Register (29 September 2000).

In reply to the non-final Office action of June 1, 2007, applicants filed a response on September 19, 2007. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action, the cancellation of claim 3 and the amendment of claim 1.

On February 27, 2008, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-2 and 4-6 were pending in the application and were examined on their merits. The examiner rejected claims 1, 2 and 4-6 under

35 U.S.C. 103(a) as being unpatentable over Muller et al. (US 6,245,792) in view of Bartlett et al. (2001) and in further view of Bowen et al. (US 6,198,020). The examiner indicated that applicants' amendment necessitated the new ground of rejection presented in the final Office action (see page 5, final Office action).

In response thereto, applicants filed this petition on March 4, 2008, requesting that the finality of the Office action of February 27, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on March 4, 2008, applicants request reconsideration of the final Office action mailed by the examiner on February 27, 2008 because applicants believe the final rejection was premature and improper. Specifically, applicants contend that the new ground of rejection presented by the examiner in the final Office action, namely, the rejection of claims 1, 2 and 4-6 under 35 U.S.C. 103(a) as being unpatentable over Muller et al. (US 6,245,792) in view of Bartlett et al. (2001) and in further view of Bowen et al. (US 6,198,020) was a new rejection, not necessitated by applicants' amendments to the claims, nor by the filing of an IDS. It is noted that no IDS was submitted in the interim between the mailing of the non-final Office action of June 1, 2007 and the final Office action of February 27, 2008.

The following excerpts from the MPEP § 706.07 were cited in support of applicants' contentions:

> 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)."

> ...[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection."2 It is respectfully submitted that the applicant has not "dallied in the prosecution of [this] application, resorting to technical or other obvious subterfuges in order to keep the application pending before the primary examiner ...,,3 However, the Office has switched grounds of rejection from one set of references to another in successive actions regarding claims of substantially the same subject matter. (emphasis in applicants' petition).

Applicants' arguments are well taken. It is clearly seen that the amendment filed by applicants on September 19, 2007 merely added the limitations from claim 3 into claim 1 and cancelled claim 3:

Claim 1 submitted with the amendment of September 19, 2007:

> A method for controlling rust diseases in legumes caused by Phakopsora pachyrhizi or Phakopsora meibomiae, which comprises treating aerial plant parts of legumes in need of such treatment with an aqueous preparation of a strobilurin-containing formulation comprising an effective amount of a strobilurin fungicide.

Claim 3 prior to cancellation by applicants on September 19, 2007:

> The method as claimed in claim 1, for controlling a rust disease caused by Phakopsora pachyrhizi or Phakopsora meibomiae.

Hence, the examiner should have considered the limitations of "caused by Phakopsora pachyrhizi or Phakopsora meibomiae' in the non-final Office action because it was a limitation originally present in claim 3. Therefore, the new ground of rejection presented by the examiner in the final Office action of February 27, 2007 was not necessitated by applicants' amendments to the claims on September 19, 2007 or the filing of an IDS. Thus, the finality of said Office action was not proper.

Applicants' arguments are persuasive that the final Office action issued February 27, 2008 was premature and, therefore, the finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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

Bruce Kisliuk
Director, Technology Center 1600

Seidel, Marianne

From: Richter, Johann
Sent: Tuesday, March 04, 2008 6:26 PM
To: Seidel, Marianne
Subject: RE: Your thoughts on this petition, please. thanks

I just reviewed the case and agree with applicant.

Johann R. Richter, Ph.D., Esq.
Supervisory Patent Examiner
US Patent & Trademark Office
Organic Chemistry & Biotechnology
571-272-0646

Jo Agrees w/ grant

From: Seidel, Marianne
Sent: Tuesday, March 04, 2008 5:13 PM
To: Richter, Johann
Subject: Your thoughts on this petition, please. thanks

10/636600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	Suarez-Cervieri	Docket No.:	PF0000054791/FC
Serial No.:	10/636,600	Confirmation No.:	9391
Filing Date:	8/8/2003	Examiner:	SCHLIENTZ, NATHAN W
Customer No.:	26474	Art Unit:	1616

For: Method for controlling fungal diseases in legumes

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

PETITION UNDER 37 C.F.R. § 1.181

Statement of the facts involved:

In reply to the non-final office action of June 01, 2007, applicants filed a reply in which the features of claim 3 were incorporated into claim 1. Claim 3 was canceled.

In the subsequent Office action of February 27, 2008, the newly-assigned examiner indicated that applicants' arguments were persuasive and withdrew the previous rejections. The newly-assigned examiner cited new art and presented new grounds for rejection.

Point to be reviewed:

Applicants respectfully request review regarding whether the examiner erred in making the Office action of February 27, 2008, final.

Action requested:

Applicants respectfully request that the finality of the Office action of February 27, 2008 be withdrawn.

Remarks:

"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)." [1]

First, the rejection was not based on information submitted in an IDS filed during the period set forth in 37 C.F.R. §1.97(c).

Second, the new grounds of rejection were not necessitated by the amendments. Original claim 3 read: "The method as claimed in claim 1, wherein the rust disease is caused by Phakopsora pachyrhizi or Phakopsora meibomiae." In reply to the non-final office action of June 01, 2007, applicants amended claim 1 as follows:

> A method for controlling rust diseases in legumes caused by Phakopsora pachyrhizi or Phakopsora meibomiae, which comprises treating aerial plant parts of legumes in need of such treatment with an aqueous preparation of a strobilurin-containing formulation comprising an effective amount of a strobilurin fungicide.

Thus, the new grounds of rejection presented in the Office action mailed February 27, 2008, were clearly not necessitated by the amendment to claim 1.

Applicants respectfully submit that "[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject

[1] MPEP §706.07(a)

matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection."[2] It is respectfully submitted that the applicant has not "dallied in the prosecution of [this] application, resorting to technical or other obvious subterfuges in order to keep the application pending before the primary examiner ..."[3] However, the Office has switched grounds of rejection from one set of references to another in successive actions regarding claims of substantially the same subject matter.

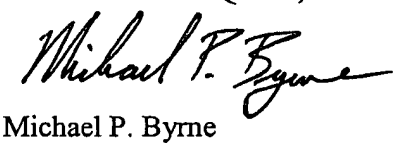
For at least these reasons, it is respectfully submitted that the finality of the Office action of February 27, 2008, should be withdrawn.

Applicants request favorable action in this matter. In order to facilitate the resolution of any issues or questions presented by this paper, the Office is welcome to contact the undersigned by phone to further the discussion. Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account 14.1437. Please credit any excess fees to such account.

NOVAK DRUCE + QUIGG, LLP
1300 Eye St. N.W.
Suite 1000 West
Washington, D.C. 20005

Phone: (202) 659-0100
Fax: (202) 659-0105

Respectfully submitted,
NOVAK DRUCE + QUIGG, LLP



Michael P. Byrne
Registration No. 54,015

[2] MPEP §706.07 (emphasis added).
[3] MPEP §706.07.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 10, 2007

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: **7056515 B2 – 10/636620**

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

_____ 1652

SPE **Art Unit**

DOC Code: COCIN

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,056,515

APPLICATION NO. : 10/636,620

ISSUE DATE : June 6, 2006

INVENTOR(S) : ROBERT GEORGE BROWN, ET AL

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

Listed on the cover page, under Other Publications, --Kirkpatrick, J.F. et al., "Applications of pig zona pellucida immunocontraception to wildlife fertility control", J. Reprod. Fert. 1996, Supl. 50, pgs. 183-189-- was missing.

Listed on the cover page, under Abstract, line 2, "...(ZP) polypeptide, and/or ..." should be --...(ZP) polypeptide construct, and/or ...--.

Column 5, line 14, "The polyoeotides of the..." should be --The polypeptides of the...--.

Beneath Columns 21 and 22, in the Sequence Listing, the first line "<160> NUMBER OF SEQ ID NOS: 16" should be --<160> NUMBER OF SEQ ID NOS: 17--

Beneath Columns 27 and 28, in the Sequence Listing, in SEQ ID NO: 7, "<213> ORGANISM: Mustela putorius furo" should be --<213> ORGANISM: dog--.

Beneath Columns 29 and 30, in the Sequence Listing, in SEQ ID NO: 8 "<213> ORGANISM: Mustela putorius furo" should be --<213> ORGANISM: dog--.

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SMART & BIGGAR
P.O. Box 2999, Station D
900 - 55 Metcalfe Street
Ottawa, Ontario, K1P 5Y6, Canada

FEB 16 2007

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 the 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.

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DOC Code: COCIN

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,056,515

APPLICATION NO. : 10/636,620

ISSUE DATE : June 6, 2006

INVENTOR(S) : ROBERT GEORGE BROWN, ET AL

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

Beneath Colums 45 and 46, in Sequence Listing, at the line below the final "Phe" residue of SEQ ID NO: 16, the following Sequence SEQ ID NO: 17 was omitted:

<210> SEQ ID NO 17
<211> LENGTH: 1793

<212> TYPE: DNA
<213> ORGANISM: cat

<400> SEQUENCE: 17

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agaacaactc tggctgcggt acctgggtaa gggagagccc ggggggctcc gtgctgttag 300
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tggcaggcct ttccgggacc ctaatctttg gattcttgtt agtgtcctac ttggctatca 1740
ggaaacggag gtgaattatt ccagttgtgt taataaaacc agattgcatt acc 1793

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P.O. Box 2999, Station D
900 - 55 Metcalfe Street
Ottawa, Ontario, K1P 5Y6, Canada

FEB 16 2007

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 the 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.**

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9100 PERSIMMON TREE ROAD
POTOMAC MD 20854

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OFFICE OF PETITIONS

In re Application of :

Mina Houtan :
Application No. 10/636,632 : DECISION ON PETITION
Filed: August 8, 2003 : TO WITHDRAW
Attorney Docket No. 44663-187509 : 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 16, 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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mina Houtan**
300 Central Avenue
Egg Harbor Township, NJ 08234

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: 7/15/05

dss
Paper Number

In re application of :
Jenn Shing Wang et al. : DECISION ON
Serial No. 10/636,645 : PETITION
Filed: August 08, 2003 :
For: MANUFACTURING PROCESS USING MICROWAVE FOR THERMAL DEBINDING :

This is a response to the PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed May 03, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed November 12, 2004, be withdrawn since the applicant did not receive the Office letter mailed April 09, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is not sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter mailed April 09, 2004. The evidence provided includes a statement by the petitioner that the Office letter mailed April 09, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed April 09, 2004 was not received. Also provided is a copy of the application docket records where the Office letter mailed April 04, 2004 would have been posted had it been timely received. However as the instant petitioner does not have power of attorney in the instant application and there are co-inventors, such evidence is insufficient without all inventors signatures attesting to the petition.

Therefore, the application remains abandoned.

The Petition is **Denied**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Far East College
P.O. Box No. 6-57
Junghe, Taipei
235
Taiwan

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Thomas E. Ball
2845 Bethany Church Road
Bumpass, VA 23024

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of :
BALL :
Application No.: 10/636,678 :
Filed: August 7, 2003 :
Attorney Docket No.: None :
For: SPORT FISHING PROTECTION SYSTEM :

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed August 17, 2005, which set a period for reply of one (1) month. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained as indicated by the Notice of Abandonment mailed March 23, 2006. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on September 18, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed August 17, 2005 is considered a *bona fide* reply for the purposes of 37 CFR 1.137(b) (See MPEP Section 711.03(c)(II)(A)(2)(a); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of August 17, 2005 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 3644.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Glenn P. Rickards
DOWREY RICKARDS PLLC
Suite 106
19119 North Creek Parkway
Bothell WA 98011

MAIL

JUN 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Frederick H. Blake
Application No. 10/636,680
Filed: August 7, 2003
For: **ANTI-CYCLING CONTROL SYSTEM FOR LUMINAIRES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed August 7, 2003 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a declaration by Mr. Frederick H. Blake attesting that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

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

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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GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO, CA 94304

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APR 07 2008

In re Application of :
Maria R. DIAZ-TORRES :
Application No. 10/636,682 : DECISION ON PETITION
Filed: August 06, 2003 :
Attorney Docket No. **GC618D2-US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 11, 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 14, 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 $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 11, 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 $1,050.00 extension of time fee submitted with the petition on February 11, 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 the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1652 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

PATENT
Attorney Docket No. GC618-D2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Group Art Unit: 1652
Maria Diaz-Torres	Examiner: Ramirez, Delia M.
Serial No.: 10/636,682	Confirmation No. 1517
Filed: August 6, 2003	
For: Production of Secreted Polypeptides	

PETITION UNDER 37 C.F.R. §1.137(b) FOR REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to a Notice of Abandonment mailed January 24, 2008, Applicants respectfully request consideration and entry of the instant Petition Under 37 C.F.R. 1.137(b) for Revival of Unintentionally Abandoned Application.

The Notice of Abandonment states that the Application became abandoned due to Applicants' failure to timely file a proper reply to the Office letter mailed on May 11, 2007. Applicants filed a response via facsimile on October 11, 2007. Applicant failed to note that the transmission report for the facsimile showed that the communication line was busy at the time, thus indicating that Applicant's facsimile had not been transmitted. Copies of the response filed on October 11, 2007, the facsimile coversheet, and the request for extension of time for two months is enclosed as proof of applicant's intension.

Pursuant to 37 C.F.R. 1.137(b), Applicants submit:

1. That the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional;

Adjustment date: 04/08/2008 CKHLOK
02/12/2008 INTEFSW 00003501 071048 10636682
02 FC:1253 1050.00 CR

2. The petition fee of $1,540.00 under 37 C.F.R. §1.17(m);

3. Three Month Extension of Time and Fee, $1,050.00

The Commissioner is hereby authorized to charge any fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 07-1048 (Docket No. GC618-D2).

Applicants petition for the consideration and entry of the instant petition.

Respectfully submitted,

Date: February 11, 2008

/Elena E. Quertermous/
Elena E. Quertermous
Registration No. 47,873

Danisco US, Inc., Genencor Division
925 Page Mill Road
Palo Alto, CA 94304-1013
Tel. (650) 846-7500, Ext. 7636
Fax: (650) 845-6504

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 10/636,682

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing		2-11-08	$ 1,050.00
	Amendment			$
X	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ ~~0.00~~ 1050.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 07--1048

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

time expired

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle Eason TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle A. Eason PHONE: 571-272-4231

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKlock DATE: 4/8/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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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

Shelby J. Walker
Patent Department
ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle, WA 98102

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JUL 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Lok, et al. :
Application No. 10/636,716 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. **96-24D2** :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 2, 2005, 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 August 7, 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 applications 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.

A review of the application file revealed that the surcharge was charged twice to deposit account 26-0290. Deposit account 26-0290 will be refunded $1,370.00, in due course.

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 1600, Art Unit 1649 for appropriate action on the amendment filed May 2, 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 non-provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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

Shelby J. Walker
Patent Department
ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle, WA 98102

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OFFICE OF PETITIONS

In re Application of :
Lok, et al. :
Application No. 10/636,716 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. **96-24D2** :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 14, 2006, 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 August 7, 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 applications 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 1600, Art Unit 1649 for appropriate action on the amendment filed February 14, 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 non-provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES
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TRADEMARK OFFICE

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

10/17/03

Kirkpatrick and Lockhart LLP
Henry W Oliver Building
535 Smithfield Street
Pittsburgh PA 15222-2312

Dear Applicant:

The Box PGPub replacement drawings for application number 10/636,727 received on 9/9/03 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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Yamamoto et al.
Application No. 10/636,758
Filed: August 8, 2003
For: STORAGE UNIT, INSTALLATION METHOD THEREOF AND INSTALLATION PROGRAM THEREFOR

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

This is a response to the petition filed February 15, 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.

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

4/11/05

JC

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Teresa Lorae Pace Olson	: DECISION ON REQUEST FOR
Patent Number	: 7657059	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/636,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **882** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20100122

DATE : January 22, 2010

TO SPE OF : ART UNIT 2193

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:

/LEWIS A BULLOCK JR/
Supervisory Patent Examiner.Art Unit 2193

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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DIW Aug-05

SCHIFF HARDIN LLP
PATENT DEPARTMENT
6600 SEARS TOWER
23 SOUTH WACKER DRIVE
CHICAGO IL 60606

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Niederdrank et al. :
Application No. 10/636,790 : DECISION ON PETITION
Filed: 7 August, 2003 :
Atty Docket No. P03,0271 :

This is a decision on the petition filed on 13 June, 2005, requesting that the above-identified application be accorded a filing date of 7 August, 2003.

The petition is **dismissed**.

Petitioners assert that the original application papers filed on 7 August, 2003, have been misplaced in the USPTO. Specifically, petitioners assert that the application as filed consisted of 13 pages of specification, including 3 pages of claims, and 3 sheets of drawings. Petitioners state they were informed by the USPTO that the application papers had been lost.

In support, petitioners have provided an itemized postcard receipt, bearing an Office-date stamp of 08/07/03 and the above-identified application number, identifying the application by first named inventor's last name and attorney docket number, and itemizing the filing of 10 pages of specification, 3 pages containing 16 claims, one (1) page of abstract, and three (3) sheets of drawings. Petitioners have also supplied a copy of 10 pages of specification, one (1) page of abstract, and three (3) sheets of drawings, and state that a copy of the application as filed is enclosed.

A review of the official file reveals no application papers filed on 7 August, 2003, are located therein.

The petition is dismissed, however, because petitioners have not supplied a copy of the application as filed. Specifically, pages 2 through 4 of the specification are missing from the application

papers supplied with the present petition. As such, while petitioners have shown that they are entitled to a filing date of 7 August, 2003, a copy of the complete specification, claims, and drawings must be supplied for proper processing and examination of the application.

The petition is therefore **dismissed** without prejudice to reconsideration pending submission of the missing pages of specification. Any request for reconsideration should be filed within TWO (2) MONTHS to be considered timely. Extensions of time are available under 37 CFR 1.136(a).

As the present petition was dismissed on the merits due to petitioners' error, the petition fee of $400.00 will be assessed.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SCHIFF HARDIN LLP
PATENT DEPARTMENT
6600 SEARS TOWER
23 SOUTH WACKER DRIVE
CHICAGO IL 60606

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Niederdrank et al.	:	
Application No. 10/636,790	:	DECISION ON PETITION
Filed: 7 August, 2003	:	
Atty Docket No. P03,0271	:	

This is a decision on (a) the petition to withdraw the holding of abandonment and (b) and the renewed petition, which is treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of 7 August, 2003, both filed on October 17, 2007.

The petitions are **GRANTED**.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A Notice of Abandonment was mailed on August 17, 2007, stating that the application was abandoned for failure to timely reply to the Decision on Petition mailed on 2 August, 2005.

Petitioners assert that a timely response to the Decision on Petition was timely filed. In support, petitioners have provided a copy of an postcard receipt itemizing the filing of a request for reconsideration of petition, bearing an "Office-date" stamp dated September 1, 2005. A copy of petitioners' renewed petition has been supplied with the present petition to withdraw the holding of abandonment.

Petitioners' response to the Decision on Petition mailed on August 2, 2005, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card 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, it is concluded that the reply to the Decision on Petition was received in the Office but was not matched with the application file.

Accordingly, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

PETITION UNDER 37 CFR 1.53(e)

Petitioners again assert that the original application papers filed on August 7, 2003, have been misplaced in the USPTO. Specifically, petitioners assert that the application as filed consisted of 13 pages of specification, including 3 pages of claims, and 3 sheets of drawings. Petitioners state they were informed by the USPTO that the application papers had been lost.

In support, petitioners have provided an itemized postcard receipt, bearing an Office-date stamp of 08/07/03 and the above-identified application number, identifying the application by first named inventor's last name and attorney docket number, and itemizing the filing of 10 pages of specification, 3 pages containing 16 claims, one (1) page of abstract, and three (3) sheets of drawings.

A review of the official file reveals no application papers filed on August 7, 2003, are located therein.

The original petition was dismissed because petitioners had not supplied a copy of the application as filed. Specifically, pages 2 through 4 of the specification are missing from the application papers supplied with the initial petition.

The renewed petition is accompanied by, *inter alia*, a copy of Pages 2-4 of the specification. As such a complete copy of the 10 pages of specification, three (3) pages containing 16 claims, one (1) page of abstract, and three (3) sheets of drawings.

As such, the evidence is convincing that the application papers deposited on August 7, 2003, included the application papers itemized on the postcard, which were subsequently misplaced in the Office. Therefore, the application as filed is entitled to a filing date of August 7, 2003.

In view of the above, the petition is granted. The petition fee will be refunded as the petition was necessitated by Office error.

The application will be processed with a filing date of August 7, 2003, using the application papers supplied on June 13, 2005, and the copy of Pages 2, 3, and 4 of the specification supplied on October 17, 2007. The copies of the other application papers filed on October 17, 2007, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Patent Application Processing (OPAP), for further processing with a filing date of **August 7, 2003**, using the specification, claims, and drawings supplied with the original petition, and pages 2, 3, and 4, of the specification supplied with the present renewed petition.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Robert L. Miller :
Application No. 10/636,808 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 62295 :

This is a decision on the petition, filed December 3, 2004, under 37 CFR 1.313(c)(1) 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 accompanied by: (1) an unequivocal statement that one or more claims are unpatentable; and (2) an explanation as to how the amendment causes such claim or claims to be unpatentable.

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 facsimile: (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 Two, Lobby, Room 1B03
Arlington, VA 22202

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Ryuichi Matsukura	: DECISION ON REQUEST FOR
Patent Number	: 7634573	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/636,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 Date: 05/18/2010

Applicant : Ryuichi Matsukura
Patent Number : 7634573
Issue Date : 12/15/2009
Application No: 10/636,809
Filed : 08/08/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1449** 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/636,822	08/07/2003	1645	750	D6071C	4	6	1

CONFIRMATION NO. 9975

CORRECTED FILING RECEIPT

OC000000012094924

Dr. Benjamin Adler
Adler & Associates
8011 Candle Lane
Houston, TX 77071

Date Mailed: 03/12/2004

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)

Michael Nehls, The Woodlands, TX;
Sigrid Wattler, The Woodlands, TX;

Domestic Priority data as claimed by applicant

This application is a CON of 09/171,642 10/21/1998
which is a 371 of PCT/US98/03243 02/20/1998

Foreign Applications

GERMANY 197 07 012.4 02/21/1997

If Required, Foreign Filing License Granted: 11/06/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of constructing vectors for homologous recombination directed mutagenesis

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Ryoichiro Uehara, et al. :
Application No. 10/636,827 : DECISION ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 114216-007 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 20, 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) was obtained. Accordingly, the application became abandoned on November 21, 2004. A Notice of Abandonment was mailed on June 16, 2005. On January 3, 2008, the present petition was filed.

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 four 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 November 21, 2004. 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). 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) and whoever else was involved with this application at the time of abandonment. Also, statements are required from any and all 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 in 1982 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 four 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 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 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of
Ryoichiro Uehara, et al.
Application No. 10/636,827
Filed: August 7, 2003
Attorney Docket No. 114216-007

ON PETITION

This is a decision in response to the renewed petition, filed June 19, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

Any further 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 a failure to reply in a timely manner to a final Office action mailed August 20, 2004. A Notice of Abandonment was mailed on June 16, 2005. On January 3, 2008, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed April 29, 2008. In response, on June 19, 2008, the present petition was filed.

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).

Petitioner has provided an explanation of the delay in the reply that originally resulted in the abandonment of the application. However, the entire delay pursuant to 37 CFR 1.137(b) to revive the application has not been shown to the satisfaction of the Director to be unintentional. Therefore, 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) then at Bell, Boyd & Lloyd,

LLC, Mr. Leonard and whoever else having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

Petitioner indicates that Mr. Leonard of Everest Intellectual Properly Law Group was in receipt of the Notice of Abandonment on June 16, 2005 but failed to report the Notice of Abandonment to Kinoshita, YKK Corp. or the Applicants. The initial petition seeking revival was filed over three years after abandonment on November 21, 2004. Petitioner does not provide the date that he first became aware of the abandonment of the application or provide 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 petitioner. Therefore, statements are required from petitioner, Mr. Leonard and any and all persons then at Everest Intellectual Properly Law Group having firsthand knowledge of the circumstances surrounding the protracted delay after the abandonment date.

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 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

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SEP 19 2006

OFFICE OF PETITIONS

D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND, OH 44114

In re Application of :
Markus Krumbeck et al. :
Application No. 10/636,847 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. MAO738US :

This is a decision on the petition filed April 27, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on October 13, 2005, for failure to file a timely response to a Restriction Requirement mailed June 16, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed March 20, 2006.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed April 26, 2006 will be referred to Technology Center 3618 for further processing.

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

[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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United States Patent and Trademark Office
P. O. Box 1450
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SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

In re Application of :
Xiaoliang Han et al :
Application No. 10/636,853 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. 2725-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 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 October 24, 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 November 25, 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 1631 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/636,853	08/06/2003	Xiaoliang Han	2725-02

CONFIRMATION NO. 1488

OC000000026273677

C.P. Chang
c/o Pacific Law Group LLP
Suite 525
224 Airport Parkway
San Jose, CA 95110

Date Mailed: 10/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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
10/636,853	08/06/2003	Xiaoliang Han	2725-02

CONFIRMATION NO. 1488

OC000000026273750

26797
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

Date Mailed: 10/12/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 28 2010

OFFICE OF PETITIONS

PAUL H. MCDOWELL
MEDTRONIC, INC.
7000 CENTRAL AVENUE NE
MAIL STOP 300
MINNEAPOLIS MN 55432

In re Application of :
Edward CHINCHOY :
Application No. 10/636,857 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. P-10068.00 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2010, 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 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

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.

This application is being referred to Technology Center 3763 for further processing in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: REED A. DUTHLER
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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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DIW Mar-06

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Rao et al.	:	DECISION ON PETITION
Application No. 10/636,864	:	UNDER 37 CFR 1.78(a)(3)
Filed: 7 August, 2003	:	and 1.78(a)(6)
Atty Docket No. 14323US02	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 24 October, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional, international, and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

(1) the reference required by 35 U.S.C. §§ 120, 365(c), and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An

incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail: Mail Stop 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

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of :
Rao and O'Neill :
Application No. 10/636,864 : DECISION ON PETITION
Filed: 7 August, 2003 :
Atty Docket No. 14323US02 :

This is a decision on the request to correct inventorship under 37 CFR 1.48(a), filed on 24 October, 2005.

The petition is **granted**.

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship 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).

In view of the above, the inventorship is amended by the addition of Patrick J. O'Neill, Dana Point, CA.

A corrected Filing Receipt is enclosed for petitioners' records.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Brian Hearn
Petitions Examiner
Office of Petitions

Cf: Corrected Filing Receipt

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
10/636,864	08/07/2003	2189	534	14323US02	6	33	4

CONFIRMATION NO. 1480

CORRECTED FILING RECEIPT

OC000000018315395

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 03/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bindu Rama Rao, Laguna Niguel, CA;
Patrick J. O'Neill, Dana Point, CA;

Power of Attorney:

John Held Jr--21061
George McAndrews--22760
Ronald Larson--24478
Timothy Malloy--25600
Edward Remus--25703
William Wesley--26521
L Jarvis--27341
George Wheeler--28766
Herbert Hart III--30063
Jean Kuelper--30171

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/434,712 12/18/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/636,864

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Mobile handset with a fault tolerant update agent

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements

of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of
Rao et al
Application No. 10/636,864
Filed: August 7, 2003
Attorney Docket No. 14323US02

: SUBSTITUTE DECISION ON THE
: PETITION UNDER 37 CFR
: 1.78(a)(3) AND 37 CFR 1.78(a)(6)
:

This is a SUBSTITUTE decision on the petition, filed October 24, 2005, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment . The decision on petition mailed March 20, 2006 is vacated.[1]

The petition is **Granted**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

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

[1] The petition was dismissed because of an improper incorporation by reference statement. However, upon further review of the file record, and as pointed out by petitioner in a telephone conference, the incorporation by reference statement was only made to the provisional application, which was present on filing, and not to the nonprovisional application. Accordingly, the petition was dismissed in error. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 37 CFR 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 this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to 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 matter is being referred to Technology Center Art Unit for consideration by the examiner of the claim for benefit to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/636,864	08/07/2003	2189	534	14323US02	6	33	4

CONFIRMATION NO. 1480

CORRECTED FILING RECEIPT

OC000000018457025

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 04/05/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bindu Rama Rao, Laguna Niguel, CA;
Patrick J. O'Neill, Dana Point, CA;

Power of Attorney:

John Held Jr--21061
George McAndrews--22760
Ronald Larson--24478
Timothy Malloy--25600
Edward Remus--25703
William Wesley--26521
L Jarvis--27341
George Wheeler--28766
Herbert Hart III--30063
Jean Kuelper--30171

Domestic Priority data as claimed by applicant

This application is a CIP of 10/311,462 05/13/2003
which is a 371 of PCT/US01/44034 11/19/2001
which claims benefit of 60/249,606 11/17/2000
This application 10/636,864
claims benefit of 60/434,712 12/18/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/636,864

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHOD FOR AULT TOLERANT UPDATING OF AN ELECTRONIC DEVICE

Preliminary Class

711

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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffery C. Argentine	:	
Application No. 10/636,871	:	DECISION ON PETITION
Filed: August 6, 2003	:	TO WITHDRAW
Attorney Docket No. 021630-004800US	:	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 14, 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 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys/agents of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 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 named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

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

This application is being referred to Technology Center AU 3763 to await a reply to the final Office action mailed March 17, 2006.

Denise Pother
Petitions Examiner
Office of Petitions

cc: PAUL PRESTIA, ESQ. (RATNER & PRESTIA)
VALLEY FORGE, SUITE 301
ONE WESTLAKES, BERWYN
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

JEFFERY C. ARGENTINE
484 QUEENS LANE
PETALUMA, CA 94952

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MARK LEVY & ASSOCIATES, PLLC
PRESS BUILDING, SUITE 902
19 CHENANGO STREET
BINGHAMTON NY 13901

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SEP 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Mark Vincent Pierson :
Application No. 10/636,874 : DECISION ON PETITION
Filed: August 8, 2003 : PURSUANT TO
Attorney Docket No.: IVP-124 : 37 C.F.R. § 1.137(A)
Title: FORMABLE STRUCTURE :
BETWEEN TWO OBJECTS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a)[1], filed on July 23, 2007, to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 29, 2007, which set

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

(1) the required reply (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;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on June 30, 2007. A Notice of Abandonment was mailed on July 24, 2007, subsequent to the filing of this petition.

RELEVANT PORTION OF THE MPEP

MPEP § 711.03(c) states, *in pertinent part*:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a

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2 See MPEP §710.02(e).

petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

THE RELEVANT STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[3]

The burden of showing the cause of the delay is on the person seeking to revive the application[4].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[5]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[6]

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[7].

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

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3 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

4 Id.

5 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

6 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

be said to be unavoidable, all other conditions of promptness in its rectification being present[8].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[9]."

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.

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[10]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[11]."

ANALYSIS

With the present petition, Petitioner has submitted the petition fee, and has asserted that the notice was not received.

As Petitioner has correctly indicated, the correspondence address at the time of the mailing of the notice (March 29, 2007) was the residential address of the inventor. It appears that Applicant filed the present application pro se in 2003, and retained the law firm of record after receiving the first Office action in 2005. However, a Power of Attorney and Change of Correspondence Address was not filed with the Office until June 11, 2007.

The present petition was filed by one of the attorneys of record, and he has attested that "applicant...never received the NOA." Petitioner has further included an affidavit from the inventor attesting to the fact that he did not receive this notice.

Consequently, Petitioner has met requirement (2) of Rule

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8 In re Mattullath, 38 App. D.C. at (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).
9 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
10 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
11 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

§ 1.137(a). The fourth requirement is not applicable. The first and third requirements will be discussed below.

Regarding the **first requirement** of Rule § 1.137(a), Petitioner did not submit the required reply to the notice. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[12]. In order for the application to be revived, Petitioner must submit a reply that satisfies 37 C.F.R. § 1.137(a)(1) (i.e., the issue fee).

Regarding the **third requirement** of Rule § 1.137(a), Petitioner has not established that the entire period of delay was unavoidable.

The showing in the present petition is not sufficient to establish unavoidable delay, as Petitioner has failed to:

1. include a statement that a thorough search of the file jacket and docket records were conducted, and
2. include a copy of the docket record where the non-received Office communication would have been entered and docketed.

Since the notice was mailed to the inventor at his residential address, it is possible that he does not have a file jacket, and does not maintain a docket record. If such is the case, he must state this. Although he has set forth that the notice was not received, he has not asserted that he has searched the place where he normally would keep such communications, and could not find it. He must explain his system for keeping track of patent matters - where he keeps the correspondence[13]; where he writes down due dates[14]; how he knows that replies are due, etc. In essence, Applicant must explain how he reminds himself of response due dates and show that the due date for the Notice of Allowance and Issue Fee Due was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that Applicant exercised due diligence with respect to his most important business.

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12 See M.P.E.P. § 711.03(c).

13 Does Petitioner have a file/some means of organization where he keeps correspondence pertaining to this application?

14 This need not be a log. This may be in the form of a calendar or date book.

CONCLUSION

Petitioner has failed to fully comply with the provisions of this title. It follows that the present petition must be **DISMISSED.**

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[15], hand-delivery[16], or facsimile[17]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[18]. If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[19]. 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

Encl.: Copy of Notice of Allowance and Issue Fee Due

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15 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
16 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
17 (571) 273-8300- please note this is a central facsimile number.
18 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
19 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 03/29/2007

Mark Vincent Pierson
65 Hospital Hill Road
Binghamton, NY 13901

Courtesy Cpy

EXAMINER	
DAVIS, ROBERT B	
ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 03/29/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,874	08/08/2003	Mark Vincent Pierson		9084

TITLE OF INVENTION: FORMABLE STRUCTURE BETWEEN TWO OBJECTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$0	$0	$700	06/29/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 03/29/2007

Mark Vincent Pierson
65 Hospital Hill Road
Binghamton, NY 13901

Courtesy Copy

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,874	08/08/2003	Mark Vincent Pierson		9084

TITLE OF INVENTION: FORMABLE STRUCTURE BETWEEN TWO OBJECTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$0	$0	$700	06/29/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
DAVIS, ROBERT B	1722	264-223000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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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.
10/636,874	08/08/2003	Mark Vincent Pierson		9084

7590 03/29/2007

Mark Vincent Pierson
65 Hospital Hill Road
Binghamton, NY 13901

Courtesy Copy

EXAMINER	
DAVIS, ROBERT B	
ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 03/29/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 97 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 97 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/636,874	PIERSON, MARK VINCENT	
	Examiner	Art Unit	
	Robert B. Davis	1722	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the amendment filed March 2, 2007*.

2. ☒ The allowed claim(s) is/are *7-14, 16 and 17*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
   1. ☐ Certified copies of the priority documents have been received.
   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
   3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Courtesy Copy

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
   1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Robert B. Davis
Primary Examiner
Art Unit: 1722
3/20/07

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Paper No.

MARK LEVY & ASSOCIATES, PLLC
PRESS BUILDING, SUITE 902
19 CHENANGO STREET
BINGHAMTON NY 13901

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Vincent Pierson	:	
Application No. 10/636,874	:	DECISION ON PETITION
Filed: August 8, 2003	:	PURSUANT TO
Attorney Docket No.: IVP-124	:	37 C.F.R. § 1.137(B)
Title: FORMABLE STRUCTURE	:	
BETWEEN TWO OBJECTS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on November 21, 2007, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 29, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned

---

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

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

2 See MPEP §710.02(e).

on June 30, 2007. A Notice of Abandonment was mailed on July 24, 2007.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on July 23, 2007, which was dismissed via the mailing of a decision on September 28, 2007.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. It is noted that the issue fee was received on July 23, 2007.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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Commissioner for Patents
United States Patent and Trademark Office
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SEP 28 2006

OFFICE OF PETITIONS

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of :

Doron Marco et al. :

Application No. 10/636,877 : DECISION ON PETITION
Filed: August 6, 2003 : TO WITHDRAW
Attorney Docket No. 559162000200 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 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 Thomas E. Ciotti 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Doron Marco**
Levin Kipnis Street, No. 3
The Mashrela Project
Tel Aviv, ISRAEL

cc: **Dr. Tuvia D. Kulschwe**
D-Crown Ltd.
3 Habarzel Street
Ramal Hachayal
Tel-Aviv, 69710
ISRAEL

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MAY 1 1 2006

Director's Office
Office of Patent Publication

JOSEF WODESLAVSKY
#5 PETER LYNAS CT.
TENAFLY, NJ 07670

In re Application of
WODESLAVSKY, JOSEF
Application No. 10/636,889
Filed: August 8, 2003

DECISION ON PETITION

This is a decision on the Petition To The Commissioner Under 37 C.F.R. 1.181(a), received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on May 1, 2006.

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 applicant's failure to timely pay the issue and publication fee, as required in the Notice of Allowance and Fee(s) Due mailed December 16, 2005, which set a three (3) month statutory period for reply. The Notice of Abandonment was mailed on April 24, 2006.

Applicant requests the Notice of Abandonment to be withdrawn because Applicant submitted a complete and timely response to the Notice of Allowance dated December 16, 2005. Also, asserted that papers submitted were not received in the PTO due to an error in the Post Office. Applicant also states " A certificated of mailing identifying the submittal of the issue fee payment is identified on the transmittal form dated 3/14/06."

In support of this assertion the Applicant has submitted a copy of the check, the US Post Office receipt, and the "transmittal form."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on March 20, 2006, as evidenced by the "Office Date" stamp receipt thereon. The issue fee of $700 and $300 for the publication fee was processed on March 21, 2006. The fees were due on March 16, 2006

Unfortunately, the submitted documents do not support the timeliness of the issue fee and publication fee payments. The Certificate Mail Receipt is not the certificate of mailing required by rule 1.8(a).

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

MPEP 503 states the following:

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 items listed thereon on the date stamped thereon by the USPTO.

Unfortunately MPEP 503 is not applicable since there is no record of receipt of the Return Receipt Postcard, which if received in the Office would have been stamped (referred to as "Office Date" stamp) acknowledging receipt of the items identified thereon.

Patent rules under 37 CFR § 1.8 ii states in part: ...The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. *See 37 CFR §1.8 Certificate of mailing or transmission*

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Applicant does not satisfy requirement (2) in that, copies of the previously mailed correspondence with **certificate of mailing** was not provided.

37 CFR § 1.10 is not applicable since this procedure was not used.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File 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
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: Robert E. Smith III	: DECISION ON REQUEST FOR
Patent Number	: 7575256	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/636,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Patrick D. Kelly
11939 Manchester #403
St. Louis MO 63131

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Charles W. Scouten et al.	:	
Application No. 10/636,899	:	DECISION ON PETITION
Filed: August 6, 2003	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket No.: CT-STH-2	:	
	:	
Title: DIGITAL STEREOTAXIC MANIPULATOR WITH CONTROLLED ANGULAR DISPLACEMENT AND FINE-DRIVE MECHANISM	:	

This is a decision on the petition filed March 14, 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 to File Missing Parts of Nonprovisional Application, mailed November 7, 2003, which set a shortened statutory period for reply of two (2) months. The notice indicated that the remainder of the basic filing fee

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.

($370 was submitted when $385 was due), a properly executed oath or declaration, and the surcharge associated with the late submission of the same would be required. 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 January 8, 2004. A notice of abandonment was mailed on October 27, 2004.

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 a declaration, the surcharge associated with the late submission of the same, and the petition fee. Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). It is noted that a terminal disclaimer is not required.

Regarding the first requirement, the fees which are presently due are the $390 filing fee, the $250 search fee, and the $100 examination fee. Petitioner has previously submitted $370 towards the filing fee. As such, $370 ($390 + $250 + $100 - $370) remains due. The petition does not appear to contain an authorization to charge any deficiency to a deposit account.

As such, this petition under 37 C.F.R. §1.137(b) is **DISMISSED.**

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Notice to File Missing Parts of Nonprovisional Application, mailed November 7, 2003

---

4 (571) 273-8300- please note this is a central facsimile number.

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	ATTORNEY DOCKET NUMBER
10/636,899	08/06/2003	Charles W. Scouten	CT-STH-2

Patrick D. Kelly
11939 Manchester #403
St. Louis, MO 63131

Courtesy Copy

CONFIRMATION NO. 9300

FORMALITIES LETTER

OC000000011209324

Date Mailed: 11/07/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is insufficient.
  Applicant must submit $ 15 to complete the basic filing fee for a small entity.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$80** for a Small Entity

- **$15** Statutory basic filing fee.
- **$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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Paper No. None

Patrick D. Kelly
11939 Manchester #403
St. Louis MO 63131

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OFFICE OF PETITIONS

In re Application of	:	
Charles W. Scouten et al.	:	
Application No. 10/636,899	:	DECISION ON RENEWED
Filed: August 6, 2003	:	PETITION UNDER 37 C.F.R.
Attorney Docket No.: CT-STH-2	:	§1.137(B)
Title: DIGITAL STEREOTAXIC MANIPULATOR WITH CONTROLLED ANGULAR DISPLACEMENT AND FINE-DRIVE MECHANISM	:	

This is a decision on the renewed petition filed September 11, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application. It is noted that the petition contains a certificate of mailing dated September 5, 2006.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed November 7, 2003, which set a shortened statutory period for reply of two months. The notice

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.

indicated that the remainder of the basic filing fee ($370 was submitted when $385 was due), a properly executed oath or declaration, and the surcharge associated with the late submission of the same would be required. 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 January 8, 2004. A notice of abandonment was mailed on October 27, 2004.

The original petition was filed on March 14, 2006, and was dismissed via the mailing of a decision on July 5, 2006 for failure to meet the first requirement.

With this renewed petition, the deficient fees have been submitted.

As such, this renewed petition is **GRANTED.**

The Office of Initial Patent Examination will be made aware 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. 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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Graham Edmund Kelly et al.
Application No. 10/636,902
Filed: August 6, 2003
Attorney Docket No. 07579.0007.03

: ON PETITION

The application was filed on August 6, 2003. However, on November 7, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application" stating that the application had not been accorded a filing date because the specification was missing.

In response, the instant petition to accord a filing date was filed December 31, 2003, wherein petitioners argue that a copy of the specification, originally filed in prior application No. 09/254,026 on August 5, 1999, was filed with the instant application on August 6, 2003 The petition is accompanied by, inter alia, a copy of the specification purportedly filed in the parent application filed August 5, 1999 and purportedly filed in the instant application as a continuation of application no. 09/254,026; a copy of the application transmittal letter and a copy of petitioners' postcard receipt.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not identify the number of pages of specification filed on August 6, 2003 instead the post card itemizes the Continuation Application which includes copies of International Application PCT/AU97/00563 (50 pages); Annexes (amended sheets) to the Preliminary Examination Report (13 pages); and Declaration and Power of Attorney (3 pages).

Petitioner should note also that the Express Mail mailing label is not persuasive evidence of the receipt of specification on August 6, 2003. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence. A petition under 37 CFR 1.10 is therefore inappropriate in the present case.[1] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

As well, an application transmittal letter is, at best, only evidence of what was intended to be filed, not evidence of what was actually received or filed in the USPTO.

It is noted, however, that the transmittal letter deposited on August 6, 2003, at paragraph 1, incorporated by reference the entire disclosure of prior application No. 09/254,026.

Based on petitioners' representation that the specification supplied with the petition is a part of the disclosure of application No. 09/254,026 and the entire disclosure of application No. 09/254,026 was specifically incorporated by reference in the present application on August 6, 2003, it appears that the specification was present in the Office on August 6, 2003, albeit in the file of another application, i.e., application No. 09/254,026. Therefore, on petition, the application may be accorded the requested filing date.

The petition is GRANTED.

However, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

Of course, the primary examiner is expected to compare the specification supplied on December 31, 2003, to the disclosure of prior application No. 09/254,026 in order to verify the specification is, in fact, part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 6, 2003, using the specification supplied on December 31, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Bacarella et al. :
Application No. 10/636,940 : ON APPLICATION FOR
Filed: August 6, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 46030/P043US/ :
10407179 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed January 6, 2009. Applicants submit that the correct patent term adjustment as of the mailing of the notice of allowance is two hundred twenty-three (223) days, not one hundred sixty (160) days.

The application for patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED TWENTY-THREE (223) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 15, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 160 days. Applicants dispute the reduction of 63 days, pursuant to § 1.704(b), entered for applicants taking until October 14, 2005 to file a response to the non-final Office action mailed May 17, 2005. Applicants state that the applicant delay should have been calculated based on the date the non-final Office action was re-mailed and the

period for reply restarted, July 22, 2005. Accordingly, applicants contend that this period of reduction should be 0 days, not 63 days.

37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), the applicant delay within the meaning of §1.704(b) has been corrected from 63 to 0 days.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is TWO HUNDRED TWENTY-THREE (223) days (223 days of Office delay reduced by 0 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.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays

under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

PTA Calculations for Application: 10/636940			
Application Filing Date:	08/06/2003	PTO Delay (PTO):	223
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	63
Post-Issue Petitions:	0	Total PTA (days):	223
PTO Delay Adjustment:	63		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	63		
86	12/15/2008	MAIL NOTICE OF ALLOWANCE			
85	12/10/2008	ISSUE REVISION COMPLETED			
84	12/10/2008	DOCUMENT VERIFICATION			
83	12/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	12/08/2008	NOTICE OF ALLOWABILITY			
81	08/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	08/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	08/12/2008	REFERENCE CAPTURE ON IDS			
73	08/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	10/06/2008	DATE FORWARDED TO EXAMINER			
68	08/26/2008	RESPONSE AFTER NON-FINAL ACTION			
67	05/27/2008	MAIL NON-FINAL REJECTION			
66	05/24/2008	NON-FINAL REJECTION			
61	03/24/2008	DATE FORWARDED TO EXAMINER			
60	03/05/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
59	03/24/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
58	03/05/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
57	12/07/2007	MAIL FINAL REJECTION (PTOL - 326)			
56	12/07/2007	FINAL REJECTION			
51	09/30/2007	DATE FORWARDED TO EXAMINER			
50	09/27/2007	RESPONSE AFTER NON-FINAL ACTION			

49	06/29/2007	MAIL NOTICE OF WITHDRAWN ACTION			
48	06/29/2007	MAIL NON-FINAL REJECTION			
47	06/25/2007	NON-FINAL REJECTION			
45	06/25/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
44	04/18/2007	MAIL FINAL REJECTION (PTOL - 326)			
43	04/16/2007	FINAL REJECTION			
42	04/09/2007	DATE FORWARDED TO EXAMINER			
41	04/05/2007	RESPONSE AFTER NON-FINAL ACTION			
40	01/05/2007	MAIL NON-FINAL REJECTION			
39	12/22/2006	NON-FINAL REJECTION			
38	10/25/2006	DATE FORWARDED TO EXAMINER			
37	10/18/2006	RESPONSE AFTER NON-FINAL ACTION			
36	08/15/2006	MAIL NON-FINAL REJECTION			
35	08/07/2006	NON-FINAL REJECTION			
34	06/03/2006	DATE FORWARDED TO EXAMINER			
33	05/30/2006	APPEAL BRIEF FILED			
32	03/29/2006	NOTICE OF APPEAL FILED			
31	01/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
30	01/09/2006	FINAL REJECTION			
29	10/26/2005	DATE FORWARDED TO EXAMINER			
28	10/19/2005	RESPONSE AFTER NON-FINAL ACTION		63	25
27	07/22/2005	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
26	07/21/2005	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
25	05/17/2005	MAIL NON-FINAL REJECTION	223		-1
24	05/16/2005	NON-FINAL REJECTION			
23	03/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	11/26/2004	REFERENCE CAPTURE ON IDS			
21.7	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/07/2004	CORRESPONDENCE ADDRESS CHANGE			
19	10/08/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
18	10/07/2004	CORRESPONDENCE ADDRESS CHANGE			
17	10/07/2004	CORRESPONDENCE ADDRESS CHANGE			

16	08/03/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
13	01/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	01/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	12/22/2003	TRANSFER INQUIRY TO GAU			
10	11/06/2003	APPLICATION IS NOW COMPLETE			
9	11/05/2003	APPLICATION RETURN FROM OIPE			
8	11/05/2003	APPLICATION RETURN TO OIPE			
7	11/05/2003	APPLICATION DISPATCHED FROM OIPE			
6	11/05/2003	APPLICATION IS NOW COMPLETE			
5	08/06/2003	PGPUBS NONPUB REQUEST			
4	10/23/2003	CASE CLASSIFIED BY OIPE			
3	10/23/2003	CLEARED BY OIPE CSR			
2	09/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/06/2003	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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Colorado Springs, CO 80920

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :

Westermann, et al. :

Application No. 10/636,958 :

Filed: August 8, 2003 :

Attorney Docket No. TRASHBAG.DSP

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 28, 2005.

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

This application was held abandoned on July 14, 2005, after it was believed that no response was received to the non-final Office action mailed April 13, 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 November 4, 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 July 13, 2005. A copy of the amendment containing a certificate of mailing dated July 13, 2005 accompanied the petition.

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.

The application file is being forwarded Technology Center 3600, GAU 3653, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

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In re Application of
Ira R. Forman, et al.
Application No. 10/636,990
Filed: August 7, 2003
Attorney Docket No. AUS920030173US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed March 12, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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 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 3624 for appropriate action by the Examiner in the normal course of business on the reply received November 20, 2009

April M. Wise
Petitions Examiner
Office of Petitions

cc: J. B. KRAFT
710 COLORADO STREET, #5C
AUSTIN, TX 78701

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INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS, CO 80527-2400

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Timothy V. Harper et al :
Application No. 10/636,993 : DECISION GRANTING PETITION
Filed: August 6, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 200205879-2 :

This is a decision on the petition, filed January 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 September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
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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1300 EYE STREET NW
SUITE 400 EAST TOWER
WASHINGTON, DC 20005

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JUL 05 2005

OFFICE OF PETITIONS

In re Application of :
Petrie :
Application No. 10/637,001 : Decision on Petition
Filed: August 8, 2003 :
Attorney Docket No. 07298.0076.NPUS01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 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 November 10, 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 11, 2004. A Notice of Abandonment was mailed on October 27, 2004.

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.

As of December 8, 2004, the filing fee for applications filed prior to December 8, 2004, was increased from $770 to $790. Petitioner submitted $770. Therefore, $20 has been charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed the application has been revived.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-14-07

TO SPE OF : **Technology Center** 2617 10/637022

SUBJECT : Request for Certificate of Correction on Patent No.: 7212824 B2

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

SPE 2617 **Art Unit**

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UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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JUL 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,181,176	:	
Issue Date: February 20, 2007	:	
Application No. 10/637,023	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. I-2-0380.1US	:	

This is a decision on the petition filed September 18, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction only in regard to the correction of assignee's name. Acceptance of the request for certificate of correction in regard to the specification and claims is determined by the Technology Center Art Unit.

Carl Friedman
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/5/08

Paper No.: —

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/637023 Patent No: 7181176 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.

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

Comments: Approved. thank you.

DUC M. NGUYEN
~~SUPERVISORY PATENT EXAMINER~~
SPE
TECHNOLOGY CENTER 2600

2618
Art Unit

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RESTON, VA 20190-5061

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Ken Rider et al	:	
Application No. 10/637,072	:	ON PETITION
Filed: August 7, 2003	:	
Attorney Docket No. CNTW-020/01US	:	

This is a decision on the petition under 37 CFR 1.173(b), filed May 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 4, 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 February 5, 2004.

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 for preexamination processing.

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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MAILED

JUN 18 2004

Director's Office
Group 3700

Joseph J. Berke
5865 Dunmore Court
West Bloomfield, MI 48322

In re application of :
Joseph J. Berke et al. :

DECISION ON PETITION
TO MAKE SPECIAL
UNDER 37 CFR. 1.102(c)

Serial Number: 10/637077 :
Filed: August 8, 2003 :

For: **EYE INJURY TREATMENT STATION**

This is a decision on the petition filed on February 14, 2004, 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: 6/17/04

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Sauer et al. :
Application No. 10/637,079 : ON PETITION
Filed: August 8, 2003 :
For:CANCELLATION OF RINGING IN MAGNETIC RESONANCE UTILIZING A COMPOSITE PULSE :

This is a decision on the petition filed by facsimile transmission August 4, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition considered under 37 CFR 1.181 is **granted.**

A Notice of Abandonment was mailed May 3, 2005, predicated on applicant's alleged failure to file a reply to the non final Office action of September 29, 2004, which set a shortened but extendable statutory period (to 6 months) for reply.

However, petitioner asserts, and inspection of the record herein confirms, that on March 29, 2005, applicant filed a petition and fee for a 3 month extension of time under 37 CFR 1.136(a), and a request for a Statutory Invention Registration ("SIR"), both timely. It is agreed that a timely SIR request is an acceptable reply to avoid a holding of abandonment.

This file is being referenced to the Technology Center for further processing consistent with this decision, and, in turn its referencing to TC 3662 for SIR processing, per MPEP 1101.

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

Brian Hearn
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

Office of Counsel Code OC4
NSWC Indian Head Division
Bldg. D-326
101 Strauss Ave.
Indian Head, MD 20640-5035

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
R. Jason Jouet, et. al. :
Application No. 10/637,090 : ON PETITION
Filed: August 6, 2003 :
Attorney Docket No. 83,960 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on August 17, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed December 28, 2005. A Notice of Abandonment was mailed on August 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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 1775.

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Reggie Johnson
5 Ingrid Court
Wilmington DE 19808

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Reggie Johnson	:	
Application No. 10/637,093	:	ON PETITION
Filed: August 6, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 14, 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, the application became abandoned on September 15, 2005. The Notice of Abandonment was mailed March 24, 2006.

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

A reply to the office action mailed June 14, 2005 is required to revive the application. Also, the petition fee is $770, $20 more is needed to consider the renewal 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Reggie Johnson**
14 Forest Ridge
Newark, DE 19711

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/637,108	08/08/2003	2813	750	3264.6US (92-0280.09/US)	4	20	2

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

CONFIRMATION NO. 5025

CORRECTED FILING RECEIPT

OC000000011448316

Date Mailed: 12/23/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gurtej S. Sandhu, Boise, ID;
Trung T. Doan, Boise, ID;
Tyler A. Lowrey, Boise, ID;

D mestic Priority data as claimed by applicant

This application is a DIV of 09/921,615 08/03/2001 PAT 6,632,736
which is a CON of 09/495,534 01/31/2000 PAT 6,291,340
which is a CON of 09/012,685 01/23/1998 PAT 6,081,034
which is a CON of 08/509,708 07/31/1995 PAT 5,723,382
which is a CIP of 08/228,795 04/15/1994 ABN
which is a CON of 07/898,059 06/12/1992 ABN

F reign Applications

If Required, Foreign Filing License Granted: 11/05/2003

Pr jected Publication Date: 03/18/2004

N n-Publicati n Request: No

Early Publicati n Request: No

Title

Low-resistance contact to silicon having a titanium silicide interface and an amorphous titanium carbonitride barrier layer

Preliminary Class

438

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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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

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NOV 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Charles Binzel, et al. :
Application No. 10/637,124 :
Filed: August 8, 2003 :
Attorney Docket No. CS21165RL :

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed April 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign European Application No. 02292026, filed August 13, 2002.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on August 8, 2003, which is after November 29, 2000 and within 12 months of August 13, 2002 (the filing date of the foreign application to which benefit is now being claimed). On April 30, 2007, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 2618 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Sherry D. Brinkley at (571) 272-3204 .

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/637,124	08/08/2003	2618	934	CS21165RL	23	3

CONFIRMATION NO. 3836

CORRECTED FILING RECEIPT

20280
MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

OC00000026644334

Date Mailed: 11/07/2007

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

Applicant(s)

Charles Binzel, Bristol, WI;
Ouelid Abdesselem, Toulouse, FRANCE;
Benoit Boyer-Noel, Grisolles, FRANCE;
Mark Kaluzny, Grayslake, IL;
Estelle Menu, Ramonville St Agne, FRANCE;
Daniela Radakovic, Park Ridge, IL;

Power of Attorney: The patent practitioners associated with Customer Number 20280

Domestic Priority data as claimed by applicant

Foreign Applications
EUROPEAN PATENT OFFICE (EPO) 02292026.8 08/13/2002

If Required, Foreign Filing License Granted: 11/05/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/637,124**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Incoming message decoding in wireless communications devices and methods

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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MARTINE PENILLA &
GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

COPY MAILED
MAR 08 2010

In re Application of :
Volkkov :
Application No. 10/637,132 : DECISION
Filed/Deposited: 8 August, 2003 :
Attorney Docket No. SUNMP340 :

This is a decision on the petition filed on 17 November, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.181.")."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 16 October, 2006, with required reply due absent extension of time on or before 16 January, 2007.

The Office mailed the Notice of Abandonment on 16 July, 2007.

On 17 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, that a timely reply had been filed—and averred further that a copy of the receipt card was enclosed with the petition and a copy of the timely reply. No receipt card appears in the record at this writing and there is no statement by the person who signed the certificate of mailing (dated 16 February, 2007) on the copy of the transmittal sheet averred to have accompanied the reply. Moreover, it is noted that Petitioner's reply to the Notice of Abandonment was filed some forty (40) months after the Notice was mailed and clearly not within the two (2) months required under the regulation, and there is no indication of a Status Inquiry having been filed in that period.

Thus, Petitioner has failed to comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c), and requested to comply with it.

Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

> ***C. Treatment of Untimely Petition To Withdraw Holding of Abandonment***
>
> 37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).
>
> Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.
>
> ***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and

> MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, he may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

---

[1] *See*: MPEP §711.03(c) (I)(B).

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARTINE PENILLA &
GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of
Volkkov
Application No. 10/637,132
Filed/Deposited: 8 August, 2003
Attorney Docket No. SUNMP340

DECISION

This is a decision on the petition filed on 29 March, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; alternatively, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the timeliness requirements set forth there.

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) with regard to petitions pursuant to 37 C.F.R. §1.137(b).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 16 October, 2006, with required reply due absent extension of time on or before 16 January, 2007.

The Office mailed the Notice of Abandonment on 16 July, 2007.

On 17 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, that a timely reply had been filed—and averred further that a copy of the receipt card was enclosed with the petition and a copy of the timely reply, but none was evident in the record and there was no statement by the person who signed the certificate of mailing (dated 16 February, 2007) on the copy of the transmittal sheet averred to have accompanied the reply. Moreover, Petitioner's reply to the Notice of Abandonment was filed some forty (40) months after the Notice was mailed and clearly not within the two (2) months required under the regulation, and there is no indication of a Status Inquiry having been filed in that period. The petition was dismissed on 8 March, 2010.

On 29 March, 2010, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181 and also submitted a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply and statement of unintentional delay.

Petitioner failed to comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). As noted on an earlier petition, Petitioner's reply to the Notice of Abandonment was late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

> ***C. Treatment of Untimely Petition To Withdraw Holding of Abandonment***
>
> 37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).
>
> Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.
>
> ***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and

> MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

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[1] *See*: MPEP §711.03(c) (I)(B).

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the timely showing required.

As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**; the the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an 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.

The instant application is released to Technology Center/AU 2191 for further processing in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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 2 6 2004

OFFICE OF PETITIONS

In re Application of
Hagen et al.
Application No. 10/637,147
Deposited: August 8, 2003
Attorney Docket No.: 16229-US
Title of Invention: Auxiliary Seed Hopper Having A Removable Screen

ON PETITION

This is a decision on the Petition for Filing Date filed May 14, 2004, requesting that the above-identified application be accorded the filing date of August 8, 2003.

Application papers in the above-identified application were deposited on August 8, 2003. However, on May 4, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.[1]

In response, 2 sheets of drawings, including figures 1-3 and the present petition were filed on May 14, 2004. The petition contends that the application as filed included 2 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of " 2 sheets of formal drawings" on August 8, 2003.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on August 8, 2003, but no drawings are present in the file. Hence, it is clear that the papers for this

---

[1] See 35 U.S.C. 111(a)(4)

[2] 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. See MPEP 503.

application were mishandled by the Office. Therefore, it is concluded that 2 sheets of drawings, including figures 1-3, were received on August 8, 2003, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on May 14, 2004, will be used for processing and examination purposes.

No petition fee is due and none has been charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of August 8, 2003**, using the 2 sheets of drawings supplied on May 14, 2004.

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

10-637,154 **SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.:020806

DATE : February 8, 2006

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 6,863,151

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: Paula Bradley **Art Unit** 2837

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVE.
SUITE 2040
MIWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: J. Mark Weber	: DECISION ON REQUEST FOR
Patent Number	: 7638306	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1457** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PERKINS COIE LLOP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of :
Bryan M. Kelly et al :
Application No. 10/637,185 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 59027-8001.US12 :

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 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 3711 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 050305

MAY 10 2005

Robert Nick
PO Box 3156
Laguna Hills CA 92654

In re Application of:
TYAN et al
Serial No.: 10/637,199
Filed: August 8, 2003
Attorney Docket No.: **OP 03/108**

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 December 03, 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 Robert Nick, on behalf of himself. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response, or the expiration date of the maximum time period.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the Optinetrics, Inc., at the below address, until otherwise notified by applicant.

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

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

cc: Optinetrics, Inc.
20401 Earl Street
Torrance, CA 09503

ccc: Rongchung Tyan
6442 Adobe Circle Rd.
Irvine, CA 92612

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AMIN, TUROCY & CALVIN, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND OH 44114

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Rongchung Tyan, et al. :
Application No. 10/637,199 : DECISION ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. LMP128US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 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 March 5, 2007. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 6, 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 13.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

The mailing of this decision ratifies the ensuing prosecution performed by the Technology Center.

This application is being referred to Technology Center AU 2883 for processing of the RCE and fir 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHUN-POK LEUNG
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8th FLOOR
SAN FRANSISCO, CALIFORNIA 94111-3834

MAILED
NOV 19 2004
Technology Center 2100

In re Application of: Sonoda, et al.
Application No. 10/637,216
Filed: August 8, 2003
For: COMPUTER 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 6, 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 6, 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 merely paraphrases the disclosure and/or abstracts (see for example, the discussion of references 5-6, which merely recite the abstracts) provided in each reference 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 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

HMJ: 11/17/04

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MAR 11 2005

Technology Center 2100

CHUN-POK LEUNG
TOWNSEND AND TOWNSEND AND CREW LLP
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Sonoda, et al.
Application No. 10/637,216
Filed: August 8, 2003
For: COMPUTER SYSTEM

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

This is a decision on the Request for Reconsideration filed January 10, 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 6, 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 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

BLJ: 3/7/05

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SCHULTZ & ASSOCIATES, P.C.
5400 LBJ FREEWAY
SUITE 1200
DALLAS TX 75240

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JUN 09 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Carpenter et al. :
Application No. 10/637,220 :
Filed: August 8, 2003 :
Attorney Docket No.63823.0102 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 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 December 11, 2006. An amendment was filed on May 15, 2007 along with a two month extension of time pursuant to 37 CFR 1.136(a). In reply, an advisory action was mailed on May 29, 2007 indicating that the amendment failed to place the application in condition for allowance. Accordingly, the date of abandonment of this application is May 12, 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).

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 $750.00; 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 3637 for processing in the normal course of business on the amendment submitted on petition.

Charlema Grant
Petitions Attorney
Office of Petitions

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DEC 0 2 2009

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of Nguyen :
Application No. 10/637,247 : Decision on Petition
Filing Date: August 7, 2003 :
Attorney Docket No. 030023 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action issued February 3, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, May 5, 2009. A Notice of Abandonment was issued on August 21, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the February 3, 2009 Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Petitioner has submitted $1,110 as payment for a three-month extension of time. However, payment for an extension of time in unnecessary when reviving an application. Therefore, the Office has credited the $1,110 back to petitioner's deposit account.

Technology Center Art Unit 2815 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PAMELA S. MERKADEAU
MANATT, PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

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MAR 2 8 2007

OFFICE OF PETITIONS

IN RE APPLICATION OF

Daniel J. Mendez et al.
APPLICATION NO. 10/637,267
FILED: August 9, 2003
ATTORNEY DOCKET NO. 25587-033-069

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 25, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Pamela S. Merkadeau with the firm of Manatt, Phelps & Phillips: (1) does not have power of attorney in this patent application[1]; and (2) has been employed or otherwise engaged in the proceedings in this patent application.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "[a]ttorneys are no longer representing applicant," does not meet any the conditions set forth in 37 CFR 10.40.

The power of attorney submitted on February 13, 2007 is not acceptable since it fails to satisfy the provisions of 37 CFR 3.73(b). In this regard, the "Statement under 37 CFR 3.73(b)" does not set forth the reel and frame number where the recorded assignment appears in the assignment records of the Office. If assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. *Note* 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address noted in the petition

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

There are currently no pending office actions.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Scott McKeown
Oblon, Spivak, McClelland, Mair & Neustadt, PC
1940 Duke Street
Alexandria, VA 22314-3412

[1] The revocation and power of attorney submitted on February 13, 2004, although accepted by the Office on 11-26-04, is improper since it fails to comply with the provisions of 37 CFR 3.73(b). Accordingly, there is no power of attorney by a proper party in this application.

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WWW.USPTO.GOV

Paper No. None

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Thomas J. Cataldo :
Application No. 10/637,294 : DECISION ON PETITION
Filed: August 11, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
CATALDO-230703-CON :
Title: DUAL SYNTHETIC APERTURE :
RADAR SYSTEM :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on February 11, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on November 27, 2006. A notice of abandonment was mailed on May 26, 2006.

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

2 See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

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

Receipt of the drawings filed concurrently with this petition is acknowledged.

After the mailing of this decision, the Office of Patent Publications will be notified of the same so that the present application can be processed into a patent.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

SPE: S. Jiang

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/13/07

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/637,299 Patent No.: 7220775

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 6/26/07 1623

SPE Art Unit

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Szu-Che Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7573232	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,312	: OF WYETH
Filed	: 08/08/2003	:
		:

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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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

Mail Date: 05/17/2010

Applicant : Szu-Che Cheng
Patent Number : 7573232
Issue Date : 08/11/2009
Application No: 10/637,312
Filed : 08/08/2003

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Ian James Forster, et al :
Application No. 10/637,326 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 4579-154D :

This is a decision on the petition, filed December 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

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

The application file is being referred to Technology Center Art Unit 2821 for consideration of the Terminal Disclaimer filed December 14, 2004.

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

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GEORGE GEROU
VALTINON 24
ATHENS 11473 GR GREECE

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SEP 2 8 2007

OFFICE OF PETITIONS

In re Application of :
George Gerou :
Application No. 10/637,332 : ON PETITION
Filed: August 5, 2003 :
Title: Method and Apparatus for the :
Production

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 20, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. On October 3, 2005, Applicant filed a response.[1] However, as the response was

[1] Although the response was "dated" September 26, 2005, it was not filed (i.e. received in the Office) until October 3, 2005. Papers are considered filed in the Office on the date they are received (via mail or facsimile transmission). Two exceptions are if a paper is filed via US Postal

not accompanied by a one month extension of time, the response was not timely. On July 14, 2006, the Office mailed a "Notice Requiring Extension of Time Fee - No New Time Period is Provided". This Notice informed Applicant that the one month extension of time was missing, and stated that an extension of time was necessary to avoid abandonment. The Notice did not set a new period for reply. Moreover, the Notice stated that in no event could an extension of time be provided more than six months after the mailing of the Office action. As such, the application became abandoned on October 1, 2005. Applicant filed the one month extension of time on September 6, 2006. The Office mailed a Notice of Abandonment on July 12, 2007.[2]

As Applicant did not provide the one month extension of time on or before October 30, 2005, the application is properly abandoned.

The $60 fee for the one month extension of time provided on September 6, 2006 and again on September 8, 2006 will be refunded to petitioner under separate cover.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

By mail: Mail Stop Petitions
Commissioner for Patents

Service "Express Mail" pursuant to 37 C.F.R. 1.10, in which case the paper will be considered filed on the date it is deposited as Express Mail, or if a paper is filed with a Certificate of Mailing or Transmission pursuant to 37 C.F.R. 1.8.

[2] The Notice erroneously stated that the application became abandoned due to Applicant's failure to file a proper reply to the Office action mailed on September 6, 2006. No Office action was mailed on that date.

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

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

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

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

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE GEROU
VALTINON 24
ATHENS 11473 GR GREECE

COPY MAILED

DEC 17 2007

OFFICE OF PETITIONS

In re Application of :
George Gerou :
Application No. 10/637,332 : ON PETITION
Filed: August 5, 2003 :
Title: Method and Apparatus for the :
Production

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 24, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. On October 3, 2005, Applicant filed a response.[1] However, as the response was not accompanied by a one month extension of time, the response was not timely. On July 14, 2006, the Office mailed a "Notice Requiring Extension of Time Fee - No New Time Period is

[1] Although the response was "dated" September 26, 2005, it was not filed (i.e. received in the Office) until October 3, 2005. Papers are considered filed in the Office on the date they are received (via mail or facsimile transmission). Two exceptions are if a paper is filed via US Postal Service "Express Mail" pursuant to 37 C.F.R. 1.10, in which case the paper will be considered filed on the date it is deposited as Express Mail, or if a paper is filed with a Certificate of Mailing or Transmission pursuant to 37 C.F.R. 1.8.

Provided". This Notice informed Applicant that the one month extension of time was missing, and stated that an extension of time was necessary to avoid abandonment. The Notice did not set a new period for reply. Moreover, the Notice stated that in no event could an extension of time be provided more than six months after the mailing of the Office action. As such, the application became abandoned on October 1, 2005. Applicant filed the one month extension of time on September 6, 2006. The Office mailed a Notice of Abandonment on July 12, 2007.[2] Applicant filed a petition to withdraw the holding of abandonment on August 20, 2007. However, the petition was dismissed in a decision mailed on September 28, 2007.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply was previously filed on October 3, 2005.

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 currently of record until such time as appropriate instructions are received to the contrary.

---

[2] The Notice erroneously stated that the application became abandoned due to Applicant's failure to file a proper reply to the Office action mailed on September 6, 2006. No Office action was mailed on that date.

The matter is being forwarded to Group Art Unit 2837 for consideration of the response filed October 3, 2005.

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

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 05/20/2010

Applicant	: Phong HOANG HO	: DECISION ON REQUEST FOR
Patent Number	: 7619169	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/637,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number:	7,260,273
Issue Date:	August 21, 2007
Name of Patentee:	Graham Sellers, et al.
Application No.:	10/637,344
Filing Date:	August 8, 2003
Confirmation No.:	3572
Title of Invention:	System and Method of Editing a Digital Image to Remove Unwanted Artifacts, Objects and the Like (As Amended)

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR §1.322(a))

Sir:

It is noted that an error appears or errors appear in this patent of a clerical, typographical or minor nature or character, as more fully described below, due to a mistake by the U.S. Patent and Trademark Office.

Attached hereto is Form PTO-1050.

The exact page(s) and line number(s) where the error(s) occur in the patent are:

Column 11,

Line 24, change "pixel" to --**pixel1**--;
Lines 52 and 53, change "TextureFillValue =PixelWeight*pixel1 + (1-PixelWeight1)*pixel2" to --**TextureFillValue = -PixelWeight2*pixel1 + (1-PixelWeight2)*pixel2**--;
Line 56, change "pixel" to --**pixel1**--; and
Line 59, change "pixel is" to --**pixel1 is**--.

Column 12,

Line 46, change "pixel" to --**pixel1**--.

Column 13
Lines 9 and 10, change "TextureFillValue = PixelWeight1*pixel1 + (1-PixelWeight1)*pixel2" to --**TextureFillValue = -PixelWeight2*pixel1 + (1-PixelWeight2)*pixel2**--;
Line 12, change "pixel" to --**pixel1**--;
Line 15, change "adjacent pixel" to --**adjacent pixel1**--; and
Line 17, change "distance as pixel" to --**distance as pixel1**--.
Line 65, change "pixel" to --**pixel1**--.

Column 14,

Line 34, change "pixel" to --**pixel1**--;
Line 36, change "pixel" to --**pixel1**--; and
Line 38, change "pixel" to --**pixel1**--.

Patentee's undersigned attorney may be reached at the telephone number listed below. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Mark P. Watson/
Mark P. Watson
Registration No. 31,448

Please address all correspondence to:
Epson Research and Development, Inc.
2580 Orchard Parkway, Suite 225
San Jose, CA 95131
Customer No. 20178
Telephone: (408) 952-6124
Facsimile: (408) 954-9058

Date: March 6, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,260,273
APPLICATION NO.: 10/637,344
ISSUE DATE: August 21, 2007
INVENTOR(S): Graham Sellers, et al.

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:

Column 11,

Line 24, change "pixel" to --**pixel1**--;
Lines 52 and 53, change "TextureFillValue =PixelWeight*pixel1 + (1-PixelWeight1)*pixel2" to --**TextureFillValue = -PixelWeight2*pixel1 + (1-PixelWeight2)*pixel2**--;
Line 56, change "pixel" to --**pixel1**--; and
Line 59, change "pixel is" to --**pixel1 is**--.

Column 12,

Line 46, change "pixel" to --**pixel1**--.

Column 13
Lines 9 and 10, change "TextureFillValue = PixelWeight1*pixel1 + (1-PixelWeight1)*pixel2" to --**TextureFillValue = -PixelWeight2*pixel1 + (1-PixelWeight2)*pixel2**--;
Line 12, change "pixel" to --**pixel1**--;
Line 15, change "adjacent pixel" to --**adjacent pixel1**--; and
Line 17, change "distance as pixel" to --**distance as pixel1**--.
Line 65, change "pixel" to --**pixel1**--.

Column 14,

Line 34, change "pixel" to --**pixel1**--;
Line 36, change "pixel" to --**pixel1**--; and
Line 38, change "pixel" to --**pixel1**--.

MAILING ADDRESS OF SENDER:
Epson Research and Development, Inc.
Intellectual Property Department
2580 Orchard Parkway, Suite 225
San Jose, CA 95131

FORM PTO 1050

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080915

DATE : September 15, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,260,273

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:

/Bhavesh M Mehta/
Supervisory Patent Examiner, Art Unit 2624

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.

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

COPY MAILED

AUG 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Ando	:	DECISION ON PETITION
Application No. 10/637,348	:	
Filed: August 7, 2003	:	
Attorney Docket No. 03475/LH	:	

This is a decision on the "PETITION TO WITHDRAW PATENT OFFICE REQUEST FOR ALLEGEDLY OMITTED PAGE 29 OF SPECIFICATION," filed July 29, 2004.

Application papers in the above-identified application were filed on August 7, 2003. However, on July 21, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," notifying applicant that the application papers had been accorded a filing date; however, page 29 of the specification appeared to have been omitted.

Petitioner responded with the instant petition (and petition fee). Petitioner contends that page 29 was not omitted from the application as filed. In support thereof, applicant submits a copy of their return receipt postcard (bearing a Patent Office date stamp of August 7, 2003) evidencing receipt by the Patent Office of 37 sheets of the specification (pages 1-37). Petitioner also supplied a copy of page 29 of the specification.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on August 7, 2003 of the correspondence assigned application No. 10/637,348, 2) it identifies the items being filed, including "spec, claims, Abstract (pages 1-37)," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including spec, claims, Abstract (pages 1-37), were filed on August 7, 2003.

The application papers already considered received in the Office on August 7, 2003, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt as spec, claims, Abstract (pages 1-37). Petitioner has shown that p. 29 of the specification was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 06-1378, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is to be:

- processed with a filing date of August 7, 2003, using the application papers received in the Office on that date and the missing page of specification, p. 29, re-supplied on petition filed July 29, 2004.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

COPY MAILED
JUL 10 2006
OFFICE OF PETITIONS

In re Application of :
Glenn Robert Hart :
Application No. 10/637,363 :DECISION ON PETITION
Filed: August 8, 2003 :UNDER 37 CFR 1.137(b)
For: SECOND RING EYE BAIT HOOK :

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 **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 10, 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 11, 2004. A Notice of Abandonment was mailed on October 21, 2004.

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(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 Director may require additional

information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

The petition contains the following statement: "That the applicant's entire delay in responding to the said Office action was unintentional." As the present petition to revive was not filed within one year of the mailing of the Notice of Abandonment, the statement of unintentional delay must track the language set forth in 37 CFR 1.137(b). *Note* MPEP Section 711.03(c). Accordingly, before this application can be revived, the statement that "**the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional**" is required, if in fact such statement is accurate.

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

COPY MAILED

AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
Glenn Robert Hart :
Application No. 10/637,363 :DECISION ON PETITION
Filed: August 8, 2003 :UNDER 37 CFR 1.137(b)
For: SECOND RING EYE BAIT HOOK :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 31, 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 March 10, 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 11, 2004. A Notice of Abandonment was mailed on October 21, 2004.

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(c).

The petition under 37 CFR 1.137(b) satisfies the above requirements.[1] Accordingly, the reply to the non-final Office action of March 10, 2004 is accepted as having been unintentionally delayed.

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[1] The filing of a terminal disclaimer is not required as a condition for reviving this application under the provisions of 37 CFR 1.137.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3641 for appropriate action in the normal course of business on the reply received January 9, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Knobbe, Martson, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

Mail Date: 04/20/2010

Applicant	: Ian Ayton	: DECISION ON REQUEST FOR
Patent Number	: 7615056	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mark A. Litman and Associates, P.A.
York Business Center
3209 w. 76th Street
Suite 205
Edina MN 55435

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Roger M. Snow :
Application No. 10/637380 : ON PETITION
Filing or 371(c) Date: 08/07/2003 :
Attorney Docket Number: :
PA0886.ap.US :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed November 30, 2007. The delay in treating this petition is regretted.

This Petition is hereby **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 March 9, 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).

Applicant filed an Amendment in response to the Office action on May 12, 2006; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed May 23, 2006. Accordingly, the date of abandonment of this application is June 10, 2006.

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

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

The application is being referred to Technology Center Art Unit 3711 processing of the brief in support of appeal, filed with the present petition and Notice of Appeal in the normal course of business.

Derek L. Woods
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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TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor,
San Francisco, California 94111-3834

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SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Gazetta et al. :
Application No. 10/637,384 : DECISION ON PETITION
Filed: August 8, 2003 : TO WITHDRAW
Attorney Docket No. 017887-010210US : 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 7, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to TOWNSEND and TOWNSEND and CREW LLP has been revoked by the assignee of the patent application on November 16, 2005. 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAR 2 0 2006

OFFICE OF PETITIONS

DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

In re Application of
Rosenheimer, et al.
Application No. 10/637,402
Filed: August 8, 2003
Attorney Docket No. 5858-00700

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 35 U.S.C. §365(c) for the benefit of priority to the prior-filed PCT application listed in the concurrently submitted declaration.

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)

Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

Petitioner has not filed an amendment to the first line of the specification following the title OR an ADS referencing Application No. PCT/DE02/00541, filed February 14, 2002, and stating the relationship of Application No. PCT/DE02/00541, filed February 14, 2002, to the instant application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) or ADS stating the relationship of the prior-filed PCT application to the instant application is required.

Pursuant to petitioner's authorization, deposit account no. 50-3268 will be charged the required $1,370.00 petition fee.

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

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

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks
Lead 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
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APR 12 2006
OFFICE OF PETITIONS

DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

In re Application of
Rosenheimer, et al.
Application No. 10/637,402
Filed: August 8, 2003
Attorney Docket No. 5858-00700

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed March 31, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 35 U.S.C. §365(c) for the benefit of priority to the prior-filed PCT application listed in the concurrently submitted application data sheet.

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 PCT application is submitted after expiration of the

period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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 PCT application has been included in an application data sheet; (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 and 365(c) to the prior-filed PCT 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 that 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2862 for appropriate action, including consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Frances Hicks
Lead 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
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P.O. Box 1450
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Paper No.

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale CA 94085-4040

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MAR 03 2008

In re Application of	:	
Xinping He et al.	:	
Application No. 10/637,410	:	DECISION ON PETITION
Filed: August 7, 2003	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
OMNV-037/03US (308228-211	:	
Title: ACTIVE PIXEL HAVING	:	
REDUCED DARK CURRENT IN A	:	
CMOS IMAGE SENSOR	:	

This is a decision on the petition filed December 10, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

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

---

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

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 10, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on November 11, 2007. A Notice of Abandonment was mailed on December 5, 2007.

With the present petition, Petitioner has submitted the issue and publication fees, the petition fee, and the proper statement of unintentional delay. No terminal disclaimer is required.

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

It is noted that a "Power of Attorney to Prosecute Applications before the USPTO" was filed on January 23, 2008. This filing was improperly entered, and both a Notice Regarding Change of Power of Attorney and a Notice of Acceptance of Power of Attorney were mailed by the Office on January 29, 2008.

This submission should not have been entered, as the submission was not executed. Consequently, the Correspondence Address has been changed back to the address that appears above, and the power of attorney has been reverted to the practitioners that are associated with Customer Number 62294.

A courtesy copy of this decision will be mailed to the law firm of Cooley, Godward and Kronish, LLP. The law firm of Cooley, Godward and Kronish, LLP should submit an executed Power of Attorney form.

---

2 See M.P.E.P. § 710.02(e).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
777 - 6TH STREET, NW
WASHINGTON, DC 20001-2421

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

Octobre 21, 2004

Chian Chiu Li
859 Blair Ave. , #2
Sunnyvalle, CA 94087

In re application of
Chian Chiu Li
Serial No.: 10/637, 426
Filed: August 9, 2003
For: Interferometer Optical Apparatus and Method for Measurement

This is a decision on the petition received on February 18, 2004, to the withdraw holding of abandonment in the above-identified application.

The Petition is hereby Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in a timely manner to the Notice of Missing Parts of Application mailed November 7, 2003. Which set a shortened statutory period for reply of two (2) months.

On February 18, 2004, the office received a communication from the applicant of record. Enclosed was an acknowledgement that the applicant never received the Notice of Missing Parts of Application mailed November 7, 2003. The office mailed the Notice of Missing Part of Application to the correspondence address designated on the declaration. The change of address submitted on September 15, 2003 has not been located in the office. The proof submitted on February 18, 2004 shows that applicant did filed the change of address before the Notice of Missing Parts was mailed. The change of address has been entered into the application.

The office regrets that this document was not received before the Notice of Missing Parts was mailed.

The application has been completed and release to the Technology Center 2877.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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

C. EMMETT PUGH
82 N. MAIN ST.
SUFFIELD CT 06078-2102

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JAN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Orlando Jerez :
Application No. 10/637,467 : DECISION GRANTING PETITION
Filed: August 8, 2003 :
Att'y Docket No. JereO06-CIP :

This is a decision on the petition filed October 18, 2004, in response to the Notice of Incomplete Nonprovisional Application mailed September 15, 2004, requesting that the above identified application be accorded a filing date of August 8, 2003. The petition is treated under 37 CFR 1.53.

On August 8, 2003, the application was filed.

On September 15, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on October 18, 2004 the present petition, and 7 sheets of drawings were filed. Petitioners argue that 7 sheets of drawings were filed with the other application papers on August 8, 2003. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of August 8, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 7 sheets of drawings, was supplied with the present petition. Petitioner has also supplied a copy of 7 sheets of drawings. Petitioner requests that the application, including 7 sheets of drawings, be accorded a filing date of August 8, 2003.

Upon review of the record, no sheets of drawings deposited on August 8, 2003, have been located among the application papers. However, the evidence is convincing that the application papers deposited on August 8, 2003, included 7 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 7 sheets of drawings, was complete on filing and entitled to a filing date of August 8, 2003.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed September 15, 2004, is withdrawn. Therefore, no petition fee is due and none has been charged.

Additionally, while petitioner has included copies of the oath or declaration submitted with the application on August 8, 2003 and commentary regarding the inclusion of the oath or declaration with the application, it is pointed out that the Notice of Incomplete Nonprovisional Application did not indicate that the oath or declaration was missing from the papers filed August 8, 2003. Instead, the "Notice" referenced that if the drawings had not been submitted with the application papers, submission of drawings after the fact would have to be submitted with a "newly executed oath or declaration". Since petitioner has proof that the drawings had been submitted and thus that the application was not incomplete, a "newly executed oath or declaration" was not required.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of August 8, 2003, using the application papers filed on August 8, 2003 and the 7 sheets of drawings supplied on October 18, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

C. EMMETT PUGH
82 N. MAIN ST.
SUFFIELD, CT 06078-2102

In re Application of
Orlando JEREZ
Application No. 10/637,467
Filed: August 08, 2003
Attorney Docket No. JerO06-CIP

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 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, March 08, 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 June 09, 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; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 08, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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) 272-4231.

The application file is being referred to Technology Center AU 3724 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **RANDEL PATTY**
SIEBERTH & PATTY, L.L.C.
4703 BLUEBONNET BOULEVARD
BATON ROUGE, LA 70809

FILED 8/8/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant (s): Frank E. Towsley

Serial No.: Group Art Unit:

Filed: Examiner:

For: METHOD FOR MAKING ELECTRODES FOR NICKEL-METAL HYDRIDE BATTERIES

10/637481

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

12/29/04

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

Sir:

PETITION TO MAKE SPECIAL

Applicant hereby petitions the Commissioner to advance the examination of the above referenced application on the grounds that Applicant is 65 years of age, or more.

Respectfully submitted,

Timothy S. Stevens

Timothy S. Stevens
Registration No. 32441
Phone: 989-631-4551

McKellar Stevens, PLLC
784 S. Poseyville Road
Midland, MI 48640

Date: August 8, 2003

DECLARATION

I, Frank E. Towsley, identified above as "Applicant", hereby declare and state that my birth day is: December 24, 1919

Signed: Frank E Towsley

Date: Aug. 8, 2003

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.
10/637,482	08/08/2003	Steven E. Brenner	B04-005-1	3667

23379 7590 02/18/2010

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

EXAMINER	
CLOW, LORI A	

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
02/18/2010	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):

RICHARD@SCI-TECH.COM

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 1 8 2010

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of:	
Brenner et al.	: PETITION DECISION
Serial No.: 10/637,482	
Filed: August 8, 2003	
Attorney Docket No.: **B04-005-1**	

This is in response to the petition filed by applicants under 37 CFR § 1.181(a) on January 18, 2010, to request that the ground of rejection set forth in the Examiner's Answer be withdrawn or that it be designed as New Grounds of Rejection in the Examiner's Answer mailed January 15, 2010, pursuant to MPEP § 1207.03 (IV).

BACKGROUND

On January 28, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time this Office action was mailed, claims 1, 2, 8 and 9 were pending and rejected. In this action, the examiner rejected claims 1, 2, 8 and 9 under 35 USC 101 because the invention is directed to non-statutory subject matter. Claims 1, 2, 8 and 9 were rejected under 35 U.S.C. 102(e) as being anticipated by Brenner et al.

In reply to the non-final Office action of January 28, 2009, applicants filed a response on May 28, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On September 10, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. In this action, claims 1, 2, 8 and 9 were pending and rejected. Claims 1, 2, 8 and 9 were rejected again under 35 U.S.C. 102(e) as being anticipated by Brenner et al.

On October 12, 2009, a Notice of Appeal was filed.

On October 12, 2009, applicants filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On January 15, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 1, 2, 8 and 9 under 35 U.S.C. 102(e) as being anticipated by Brenner et al. The examiner also includes Pruitt et al. as "**evidence only**" in the Examiner's Answer.

In response thereto, appellants filed this petition under 37 CFR § 1.181(a) on January 18, 2010, requesting that the ground of rejection set forth in the Examiner's Answer be withdrawn or that it be designed as New Grounds of Rejection in the Examiner's Answer mailed January 15, 2010, pursuant to MPEP § 1207.03 (IV).

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on January 18, 2010, appellants argue that the Examiner's Answer mailed on January 15, 2010 contained a new ground of rejection. Specifically, appellants' argue the "...the Examiner seeks to introduce for the first time in this record a new reference to make new allegations which she claims supports her 35USC 102(e) rejection - the only pending rejection. In particular, the Examiner seeks to rely on a newly introduced Pruitt et al. (2001) reference to make new allegations that a certain database (RefSeq) contain includes sets of putative protein isoforms (Answer, p.9, lines 10-15; and p.7, lines 6-8)."

It is Appellants position, in view of the newly cited art relied upon by the Examiner, that the present rejection constitutes a New Ground of Rejection pursuant to M.P.E.P. §1207.03(III):

> *A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).*

Appellants also argue that "MPEP 1207.03 does not purport to allow Examiners to subvert Due Process and deny applicants a full and fair opportunity to respond to new evidence, but only indicates the possibility of justifying a new reference in an Answer in the limited situation where the evidence is offered only to support a prior allegation as to what is "common knowledge":

> *Where a newly cited reference is added merely as evidence of the prior statement made by the examiner as to what is "well-known" in the art which was challenged*

for the first time in the appeal brief, the citation of the reference in the examiner's answer would not ordinarily constitute a new ground of rejection within the meaning of 37 CFR 41.39(a)(2). See also MPEP § 2144.03.

For what is meant by common knowledge, MPEP1207.03 cites MPEP § 2144.03:

> 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art
>
> In certain circumstances where appropriate, an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection, however such rejections should be judiciously applied.
>
> ...It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art [like specific dosages of a particular drug used anecdotally to treat a certain unusually rare disease] must always be supported by citation to some reference work recognized as standard in the pertinent art."

Appellants further argue "... the new evidence is not relied upon to support any prior allegation - let alone one of common knowledge. This new reference is not responsive to any allegation of our appeal; in fact, our Appeal Brief does not even mention RefSeq."

Appellants' points on the above issues are well-taken and persuasive. A detailed review of the rejection shows that the examiner did set forth a new reference. Consequently, appellants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the Examiner's Answer.

It is thus decided that the Examiner's Answer of January 15, 2010 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer as identified herein may be permissible according to MPEP § 1207.03; however, the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 I for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of rejection in the Examiner's Answer as set forth above, the Examiner's Answer of January 15, 2010 was improper and is hereby VACATED.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 I for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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SEATTLE, WA 98104

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of
Bradley C. Edwards
Application No. 10/637,485
Filed: August 8, 2003
Attorney Docket No. HLSY-1-1002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2006.

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

A review of the file record indicates that the power of attorney to H. Albert Richardson and all attorneys/agents of record have been revoked by the applicant of the patent application on March 17, 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.

This application is being referred to Technology Center AU 1774.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: BRADLEY C. EDWARDS
2515 4TH AVE. #605
SEATTLE, WA 98121

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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
10/637,485	08/08/2003	Bradley C. Edwards	HLSY-1-1002

CONFIRMATION NO. 3661

OC000000019028488

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

Date Mailed: 05/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/637,485	08/08/2003	Bradley C. Edwards	HLSY-1-1002

CONFIRMATION NO. 3661

BRADLEY C. EDWARDS
2515 4TH AVE. #605
SEATTLE, WA 98121

OC000000019028519

Date Mailed: 05/31/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2006.

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.

Wan Laymon

WAN LAYMON
OP (571) 272-3220

ATTORNEY/APPLICANT COPY

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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

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OFFICE OF PETITIONS

In re Application of :
BOURRIERES, et al. :
Application No. 10/637,497 : DECISION ON PETITION
Filed: August 11, 2003 : TO WITHDRAW
Attorney Docket No. 0203-0008D : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2006.

The request is **APPROVED**.

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

The request was signed by Mark R. Shanks on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FRANCIS BOURRIERES**
CHEMIN DEE QUART-LES BARDOMS
MONTAUBAN, France F-82000

cc: **DR. KEITH BODEN**
THE GABLES MASSETTS ROAD
HORLEY, SURREY RH7 7DQ
UNITED KINGDOM

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BARLEY SNYDER, LLC
1000 WESTLAKES DRIVE, SUITE 275
BERWYN PA 19312

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OFFICE OF PETITIONS

In re Application of :
D. SCOTT HERR :
Application No. 10/637,505 : DECISION ON PETITION
Filed: 08/11/2003 :
Attorney Docket No. 44018-905 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 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 20, 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 21, 2007.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Specifically, petitioner submitted a revocation and appointment of power of attorney on April 27, 2007, after the expiration of the maximum statutory period for reply. Nevertheless, the Office is treating the statement as being 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 petitioner has not made such an inquiry, petitioner should do so promptly. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3752 for appropriate action by the Examiner in the normal course of business on the reply received

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Patent No. 7,082,611 :
Issue Date: July 25, 2006 :
Application No. 10/637,508 : ON PETITION
Filed: August 11, 2003 :
Attorney Docket No. SON-2797 :

This is a decision on the PETITION UNDER 37 CFR 1.183 filed February 26, 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**.

Petitioner states that the assignee was inadvertently omitted on form PTOL-85B, and requests that a Certificate of Correction be issued identifying the assignee as, "Sony Corporation, Tokyo (JP)." Petitioner submits a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the above-identified application to Sony Corporation was submitted for recording in the Office on December 10, 2003 before issuance of the patent (Reel/Frame 014780/0149) on July 25, 2006. This was also prior to payment of the Issue Fee on June 2, 2006.

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Receipt of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-20-09

Paper No.: _____

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/637,534 10/687534 Patent No.: 6798280

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

FOR IFW FILES: check drawings

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

_____
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 2817
SPE **Art Unit**

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Reinhold Schmieding	: DECISION ON REQUEST FOR
Patent Number	: 7591820	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of :
Bardiot et al. :
Application No. 10/637,539 : DECISION ON PETITION
Patent No. 7,622,176 :
Filed: December 10, 2003 :
Issue Date: November 24, 2009 :
Attorney Docket No. :
66692.000005 :
Title: HOT-EXTRUDABLE PRESSURE- :
SENSITIVE HOT-MELT ADHESIVES :
AND THEIR USE IN MULTILAYER :
FILMS :

BACKGROUND

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED SUBMISSION OF CERTIFIED COPY OF PRIORITY DOCUMENT", filed November 23, 2009, requesting that the above-identified application be accorded a priority date of February 9, 2001. Supplements to this petition were filed on April 23, 2010 and April 26, 2010. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.55(a).

The application from which this patent matured was filed on December 10, 2003. The transmittal sheet which was included on filing claimed priority to French Application No. 01.01879, filed on February 9, 2001. However, no certified copy of the priority papers was filed, and the patent issued on November 24, 2009. The priority papers were submitted concurrently with this petition, one day before the issuance of the patent.

RELEVANT LAW, RULE, AND PORTION OF THE MPEP

35 U.S.C. § 119(a) sets forth, *in toto*:

> An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

37 CFR § 1.55(a)(2) sets forth, *in toto*:

> The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in § 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and § 1.323

MPEP § 201.13(II)(B) sets forth, *in toto*:

> 35 U.S.C. 119(b)(3) authorizes the Office to require the applicant to furnish a certified copy of priority papers. Applicants are required to submit the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in 37 CFR 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323. See 37 CFR 1.55(a)(2). Certification by the authority empowered under a bilateral or multilateral treaty to receive applications which give rise to a right of priority under Article 4A(2) of the Paris Convention will be deemed to satisfy the certification requirement.

ANALYSIS

A certificate of correction under 35 U.S.C. § 255 and 37 C.F.R. § 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. §§ 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 C.F.R. § 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed foreign priority claim under 37 C.F.R. § 1.55(c).

However, a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. §§ 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 C.F.R. § 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in Brenner v. State of Israel, 158 USPQ 584.

The requirements of 35 U.S.C. 119(a)-(d) or (f) have been satisfied, and Office records (PALM) show that application No. 10/637,539 is a continuation of international application PCT/FR02/00491, filed on February 8, 2002. Therefore, the requirements of 37 C.F.R. § 1.55(a) have been met.

The certificate of correction that was submitted on April 23, 2010 will not be entered, as it does not properly list the foreign reference to which priority is sought. Receipt of the certificate of correction that was submitted on April 26, 2010 is acknowledged.

Receipt of the $1,410 fee that is associated with the filing of a petition to accept an unintentionally delayed claim for priority is acknowledged. Both the $100 certificate of correction fee and the $130 processing fee will be charged to Deposit Account number 11-0600 in due course, as authorized on the second page of this petition.

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 Senior Attorney Paul Shanoski 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.

Chris Bottorff
Supervisor
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 06/02/2010

Applicant	: Anne Bardiot	: DECISION ON REQUEST FOR
Patent Number	: 7622176	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/637,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **474** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

In re Application of :
Karl Sebert :
Application No. 10/637,540 : DECISION GRANTING PETITION
Filed: August 11, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SEBERT=1A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 19, 2004, 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 3683.

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

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REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

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Technology Center 2100

In re Application of: SUZUKI, et al.
Application No. 10/637,556
Filed: 11 August 2003
For: METHOD AND DATABASE SYSTEM FOR DUPLICATING TRANSACTIONS BETWEEN REMOTE SITES

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

This is a decision on the petition filed 13 June 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. 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 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 7/10/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of

Glaucia Paranhos-Baccala et al.
Application No. 10/637,565
Filed: August 11, 2003
Attorney Docket No. 110257.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record remains unchanged.

The attorneys/agents associated with the firm Oliff & Berridge remain of record.

There is an outstanding Office action mailed June 20, 2006 that requires a reply from the attorneys/agents of record.

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

David Bucci
Petitions Examiner
Office of Petitions

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CERMAK & KENEALY
515 E. BRADDOCK RD
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Olof Lundeberg et al :
Application No. 10/637,569 : ON PETITION
Filed: August 11, 2003 :
Attorney Docket No. 003-076 :

This is a decision on the petition under 37 CFR 1.173(b), filed April 25, 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 November 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 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 issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been recorded. Accordingly, the issue fee and publication fee payments are accepted as having been unintentionally delayed.

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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MEDTRONIC AVE, INC.
3576 UNOCAL PLACE
SANTA ROSA CA 95403

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OFFICE OF PETITIONS

In re Application of
Jere R. Anderson et al.
Application No. 10/637,575
Filed: August 11, 2003
Atty Docket No. P260 CON 4

ON PETITION

This is in response to the petition under 37 CFR 1.47(a) filed December 10, 2003.

The petition is **DISMISSED** as involving moot issues.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 07/954,750, filed on September 30, 1992. The instant application is a continuation of application no. 09/942,920, which is a continuation of application 09/192,893, which is a continuation of application no. 08/883,261, which is a continuation of application no. 08/440,700, which is a division of application no. 07/954,750. Furthermore, copies of decisions, mailed September 16, 1993 and February 26, 2002, granting petitions to accord § 1.47(a) status to the prior applications have been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as involving moot issues. As no petition fee is necessary, no petition fee has been charged. However, because the oath or declaration was not provided upon filing, the surcharge for late filing has been properly applied.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUL 2 8 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In Re Application:
BALAKRISHNAN, RAVIN, et al
Appl No. **10/637,601**
Filed: August 11, 2003
Attorney Docket No. **1252.1023C**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. 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 Matthew Bella 571-272-2190.

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

Leo Boudreau
Acting Director TC 2600
Communications

CC: Office of Publications

Patent Clerk, South Tower, Room 08C15
Supervisory Correspondence Clerk, South Tower, Room 08C15

PET DEC.

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VP
PAPER NO. __

In re Application of
Flynn et al.
Serial Number10/637,608
Filed: August 11, 2003
For: HYDROGEN ODORANTS AND ODORANT SELECTION METHOD

DECISION ON PETITION UNDER M.P.E.P. 708.02 VI

This is in response to the petition filed October 16, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

JAGTIANI + GUTTAG
Democracy Square Business Center
10379-B Democracy Lane
Fairfax, VA 22030

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10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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In re Application of	:	
Patrick FLYNN, et al	:	
Application No. 10/637,608	:	DECISION ON PETITION
Filed: August 11, 2003	:	TO WITHDRAW
Attorney Docket No. ENER-0001-UT1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2008.

The request is **APPROVED**.

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

Steven B. Kelber has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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BLISS MCGLYNN, P.C.
2075 WEST BIG BEAVER ROAD
SUITE 600
TROY, MI 48084

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In re Application of	:	
James Defillipi et al	:	
Application No. 10/637,612	:	DECISION ON PETITION
Filed: August 11, 2003	:	TO WITHDRAW
Attorney Docket No. 1403.00017	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

David Bucci
Petitions Examiner
Office of Petitions

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SEP - 5 2006

FOLEY & LARDNER, LLP
WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON, D.C. 20007-5143

In re Application of	:
Remacle et. Al.	:
Serial No.: 10/637,656	: PETITION DECISION
Filed: August 11, 2003.	:
Attorney Docket No.: 035642-0102	:

This is in response to the petition under 37 CFR § 1.181, filed July 20, 2006, requesting the Group Director to invoke his supervisory authority to remove the finality of the pending office action.

BACKGROUND

A review of the file history shows that the application as filed contained claims 1-24. On June 15, 2005, the examiner mailed a restriction requirement to applicants in which she divided the claims into Groups I-III. Applicants responded on July 13, 2005, by electing Group I, claims 1-22, without traversal.

The examiner mailed a non-final Office action to the applicants on August 10, 2005 in which she:

> Rejected claims 1-22 under 35 U.S.C. 112 first paragraph as failing to comply with the written description requirement;
> Rejected claims 1-22 under 35 U.S.C. 102(e) as being anticipated by Dahlberg et al (US 2005/0074788A1).

Applicants filed a response along with an amendment on January 9, 2006, in which they

> Cancelled claim 4;
> Amended claims 1 and 6, by inserting the term "elongating the siRNA" into the claims; and
> Presented arguments to overcome the 35 U.S.C. 112 and 35 U.S. C. 102(e) rejection.

The examiner mailed a Final Office action to applicants on April 04, 2006 in which she:

> Withdrew the previous 35 U.S. C. 112 and the 35 U.S.C. 102 rejections;
> Made a new rejection under 35 U.S.C. 112, first paragraph, on claims 1-3, 5-22;

Rejected claims 1-3, 10-17, 19, 21 and 22 under 35 U.S.C. 102(a) over Beale et al;
Rejected claims 1-3 and 5-22 under 35 U.S.C. 103(a) over Dahlberg et al; and
Made the action final and citing M.P.E.P. § 706.07(a).

On July 20, 2006 applicants filed their response along with this petition under 37 CFR § 1.181, requesting the Group Director to invoke his supervisory authority to withdraw the finality of the pending Office action.

DISCUSSION

Applicants argue that the Final Office action was premature. Therefore, withdrawal of the finality of the Office action is proper. Applicants argue that even though applicants amended the claims, the originally filed claim 4 had the limitation which was added to claim 1. Thus the amendment did not introduce any new issues. As such it should not have necessitated "new rejections". However the examiner has made new rejections based on 35 U.S.C. §§ 102, 103 and 112 stating that they were necessitated by the applicants' claim amendments.

M.P.E.P. 706.07(a) states that:

> 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)

In reviewing the file history and the claims it is clear that the limitation of the elongating step was included in the original claim 4. The examiner in her first Office action did not address this limitation, nor did she specifically reject it. Applicants' amendment adds the limitation to independent claim 1. Thus the claims have not been amended to the extent that they have new issues that would necessitate "new grounds of rejection". The examiner also included a new reference, Beale et al, in her final Office action which would have applied to claim 4 as originally filed. This rejection was not necessitated by the amendment.

Thus, in view of the above, the finality of the Office action was improper.

DECISION

The petition is to withdraw the finality of the last Office action is **GRANTED.**

The Finality of the Office action mailed April 21,2006 is withdrawn.
The application will be forwarded to the examiner for consideration of the amendment filed July 20, 2006, which will be considered as a reply to a non-Final Office action.

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. Elliot
Director, Technology Center 1600
RD/WRD

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3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

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OFFICE OF PETITIONS

In re Application of :
Wan Hua Wu et al :
Application No. 10/637,670 : ON PETITION
Filed: August 11, 2003 :
Attorney Docket No. MR1035-1287 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, 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 submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed January 9, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 11, 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 unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

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

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

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OFFICE OF PETITIONS

In re Application of
Steve Landreville et al.
Application No. 10/637,713
Filed: August 8, 2003
Attorney Docket No.: **021629-003400US**

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 11, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Steve Landreville
2. Bernard Andreas
3. Sunmi Chew
4. Pablo Acosta

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 3731 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of :
Dupouy, et al. : LETTER REGARDING PTA
Application No. 10/637,745 :
Filed: August 8, 2003 :
Atty. Dkt. No.: 021921-000100US :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed May 1, 2008. This matter is being treated the general candor and good faith provisions set forth at MPEP 2733. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 10, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 726 days. Applicants advise that the Office failed to assess a reduction of this term in connection with the RCE filed September 7, 2007.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 696 days, as indicated by applicants.

As reflected in the Determination of Patent Term Adjustment mailed April 10, 2008, an overall adjustment of 754 days can be attributed to the Office.

As further reflected in the Determination of Patent Term Adjustment mailed April 10, 2008, this adjustment was properly reduced 28 days in accordance with 37 CFR 1.704(b) in connection with the reply filed March 1, 2007.

The Office inadvertently neglected to assess a reduction in connection with the RCE filed September 7, 2007. In accordance with 37 CFR 1.704(b), the reduction commenced August 9, 2007, the day after the day that is three months after the date that the final Office action was mailed, and ended September 7, 2007, the date that the RCE was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 696 days (adjustment for Office delays totalling 754 days less reductions for applicants delays totalling 58 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

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).

This application is being forward to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 10/2/2008

PALM INTRANET

Time: 13:19:31

PTA Calculations for Application: 10/637745			
Application Filing Date:	08/08/2003	PTO Delay (PTO):	754
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	28
Post-Issue Petitions:	0	Total PTA (days):	696
PTO Delay Adjustment:	-30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	10/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
47	04/10/2008	MAIL NOTICE OF ALLOWANCE			
46	04/09/2008	ISSUE REVISION COMPLETED			
45	04/09/2008	DOCUMENT VERIFICATION			
44	04/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	04/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
42	04/08/2008	NOTICE OF ALLOWABILITY			
39	03/19/2008	DATE FORWARDED TO EXAMINER			
38	02/01/2008	RESPONSE AFTER NON-FINAL ACTION			
37	11/14/2007	MAIL NON-FINAL REJECTION			
36	11/13/2007	NON-FINAL REJECTION			
35	09/11/2007	DATE FORWARDED TO EXAMINER			
34	09/07/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	09/11/2007	DATE FORWARDED TO EXAMINER			
32	09/07/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
31	09/11/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	09/07/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	05/08/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	05/08/2007	FINAL REJECTION			
27	03/07/2007	DATE FORWARDED TO EXAMINER			
26	03/01/2007	RESPONSE AFTER NON-FINAL ACTION		28	24
25	03/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

24	11/01/2006	MAIL NON-FINAL REJECTION	754		-1
23	10/30/2006	NON-FINAL REJECTION			
22	02/23/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	06/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	08/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	07/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
18.7	02/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/23/2004	REFERENCE CAPTURE ON IDS			
15	02/02/2004	APPLICATION RETURN FROM OIPE			
14	02/02/2004	APPLICATION RETURN TO OIPE			
13	02/02/2004	APPLICATION IS NOW COMPLETE			
12	01/30/2004	APPLICATION DISPATCHED FROM OIPE			
11	01/30/2004	APPLICATION IS NOW COMPLETE			
10	12/22/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	12/22/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	10/27/2003	CLEARED BY L&R (LARS)			
4	10/27/2003	CASE CLASSIFIED BY OIPE			
3	10/27/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	09/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/08/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of :
Dieter Spaderna :
Application No. 10/637,749 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. LLEOPP008 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 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 Office action mailed August 24, 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 September 25, 2005.

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 $1080 extension of time submitted on March 24, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 2826 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

LARGE SCALE BIOLOGY CORPORATION
3333 VACA VALLEY PARKWAY
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VACAVILLE, CA 95688

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of
Hal S. Padgett et al
Application No. 10/637,758
Filed: August 8, 2003
Attorney Docket No. P-LG5392APP

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed provisional and nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) 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 (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before a petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail: Mail Stop PETITION
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

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

LARGE SCALE BIOLOGY CORPORATION
3333 VACA VALLEY PARKWAY
SUITE 1000
VACAVILLE, CA 95688

COPY MAILED

JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Hal S. Padgett et al :
Application No. 10/637,758 : DECISION ON PETITION
Filed: August 8, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. P-LG5392APP :

This is a decision on the renewed petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed provisional and nonprovisional applications, as set forth in the amendment filed July 30, 2007.

The petition is **GRANTED.**

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter 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 referred to Technology Center Art Unit 1637 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications set forth in the amendment filed July 26, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/637,758	08/08/2003	1637	1373	P-LG5392APP	71	10

CONFIRMATION NO. 2848

CORRECTED FILING RECEIPT

OC000000025102524

27860
LARGE SCALE BIOLOGY CORPORATION
3333 VACA VALLEY PARKWAY
SUITE 1000
VACAVILLE, CA 95688

Date Mailed: 07/31/2007

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

Applicant(s)

Hal S. Padgett, Vacaville, CA;
John A. Lindbo, Vacaville, CA;
Wayne P. Fitzmaurice, Vacaville, CA;
Andrew A. Vaewhongs, Vacaville, CA;

Assignment For Published Patent Application

LARGE SCALE BIOLOGY CORPORATION, Vacaville, CA

Power of Attorney:

Ralph Gallegos--32692
John Tarcza--33638
John Robbins--34706

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/402,342 08/08/2002
and is a CIP of 10/226,372 08/21/2002 ABN
which claims benefit of 60/402,342 08/08/2002
This application 10/637,758
is a CIP of 10/066,390 02/01/2002
and is a CIP of 10/280,913 10/25/2002
which claims benefit of 60/402,342 08/08/2002
and is a CIP of 10/066,390 02/01/2002
which claims benefit of 60/268,785 02/14/2001
and claims benefit of 60/266,386 02/02/2001

Foreign Applications

If Required, Foreign Filing License Granted: 01/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/637,758

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method of increasing complementarity in a heteroduplex

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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APR 2 7 2006

Technology Center 2100

In re Application of: Kyosuke ACHIWA
Application No. 10/637,776
Filed: August 7, 2003
For: METHOD FOR CONTROLLING INFORMATION PROCESSING SYSTEM AND INFORMATION PROCESSING 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 18 July 2005.

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.

With respect to requirement (e) above, the petition does not contain a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references. Petitioner 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.

The petition filed 18 July 2005 fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition refers to claims 1 and 41, the independent claims prior to addressing the prior art references. Next, the petition proffers a short discussion of each reference, with allusions to some features from the claimed invention that the reference lacks. The discussion of each reference, however, does not compare/contrast specific limitations from each of the independent claims with respect to the salient prior art recitations. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for each independent-claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference.

Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's cursory and terse treatment of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

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

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any requests for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

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

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M. ROBERT KESTENBAUM
11011 BERMUDA DUNES NE
ALBUQUERQUE, NM 87111

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Matthias BICKER et al. :
Application No. 10/637,779 : DECISION ON PETITION
Filed: August 07, 2003 :
Attorney Docket No. (H)03SGL0115USP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 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, January 24, 2007, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 26, 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 1540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 24, 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 $600.00 extension of time fee submitted with the petition on October 01, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1762 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
DEDEK, Jan :
Application No. 10/637,796 : DECISION ON PETITION
Filed: August 08, 2003 : TO WITHDRAW
Attorney Docket No. **1673.001US1** : 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 03, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on June 21, 2007.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GORDON M. KESSLER**
LECROY CORPORATION
700 CHESTNUT RIDGE ROAD
CHESTNUT RIDGE, NY 10977

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071114

DATE : November 14, 2007

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,080,674

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:

SPE: 3617 Art Unit

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David E. Bruhn
DORSEY & WHITNEY LLP
Suite 1500
50 South Sixth Street
Minneapolis MN 55402-1498

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of
Cardno et al.
Application No. 10/637,800
Filed: August 8, 2003
Attorney Docket No. 14581.01

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed March 15, 2004, 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 August 8, 2003, without an executed oath or declaration. Accordingly, on November 10, 2003, 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 January 10, 2004.

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 two (2) month extension of time was also submitted. In support of the petition, applicants submitted a copy of correspondence with the non-signing inventor.

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),(2) and (4).

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As to item (1), Rule 47 applicant has failed to show that inventor Warren Smith 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). Inventor Smith must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . The signature block of Andreas Mahn contains non-dated/non-initialed alterations to the citizenship. Such alterations render the declaration unacceptable. A newly executed declaration is required.

As to item (4) , a statement of the last known address of the non-signing inventor needs to be provided in the petition. If the last known address is the same as the one provided in the declaration such a statement 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

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CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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MAY 12 2004

OFFICE OF PETITIONS

In re Application of
James P. Souther, Eugene M. Steele, Karl D. Conroy, Raymond G. Radys and Christopher P. Henze
Application No. 10/637,815
Filed: August 8, 2003
Title: ISOLATED HIGH VOLTAGE BATTERY CHARGER AND INTEGRATED BATTERY PACK

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March11, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

RAYMOND G. RADYS
10175 5TH STREET
SANTA MONICA, CA 90403

In re Application of
James P. Souther, Eugene M. Steele, Karl D. Conroy, Raymond G. Radys and Christopher P. Henze
Application No. 10/637,815
Filed: August 8, 2003
For: ISOLATED HIGH VOLTAGE BATTERY CHARGER AND INTEGRATED BATTERY PACK

Dear RAYMOND G. RADYS:

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 Petitions Attorney Edward Tannouse at (703) 306-9200. 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).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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OFFICE OF PETITIONS

FRANK MOONEY
9 FLINTLOCK DRIVE
DANBURY, CT 06811

In re Patent No. 6,939,389 :
Issue Date: September 6, 2005 :
Application No. 10/637,828 : ON PETITION
Filed: August 8, 2003 :
Patentee(s) Frank Mooney et al :

This is a decision on the petition under 37 CFR 1.378(c), filed November 16, 2009 and supplemented on January 15, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Thomas M. Hardman
MADSON & METCALF
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101

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MAY 12 2005

Technology Center 2100

In re Application of: Michael L. Nixon Application No. 10/637,830 Filed: August 7, 2003 For: SYSTEM AND METHODS FOR DISTRIBUTING, OBTAINING AND USING DIGITAL MEDIA FILES	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (III): APPLICANT'S HEALTH**

This is a decision on the petition, filed December 03, 2004, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section III must include a showing, as by a doctor's certificate, that the state of health of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for this petition.

The petition is **GRANTED.**

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

for

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

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WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction NJ 08550

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DEC 10 2009

OFFICE OF PETITIONS

In re Patent No. 6,932,186 :
Issue Date: August 23, 2005 :
Application No. 10/637,839 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 588.1.068 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 8, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight August 23, 2009, for failure to pay the 3½ 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.

Petitioner has requested a refund for the maintenance fee and surcharge ($555) that was paid in the wrong patent number 6,932,189 on August 25, 2009. The Office records indicate that fees have indeed been credited back to the petitioner's deposit account on August 26, 2009.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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ROBERT F. ZIELINSKI
1650 ARCH STREET
PHILADELPHIA, PA 19103-2097

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of :
William D. Green :
Application No. 10/637,841 : DECISION ON PETITION
Filed: August 8, 2003 : TO WITHDRAW
Attorney Docket No. GRE528-234311 : 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 24, 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 Robert F. Zielinski on behalf of all attorneys of record who are associated with customer No. 40440.

All attorneys/agents associated with the Customer Number 40440 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: WILLIAM D. GREEN
8906 CAMDEN STREET
ALEXANDRIA, VA 22308-2715

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

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OFFICE OF PETITIONS

In re Application of :
Ishihara, et al.. :
Application No. 10/637,870 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. F-7103

This is a decision on the petition under 37 CFR 1.181 filed on February 3, 2004, to have the Notice to File Missing Parts of Nonprovisional Application mailed January 20, 2004 vacated.

The petition is **DISMISSED**.

On August 8, 2003, the above-identified application was filed. On December 1, 2003, a Notice to File Missing Parts of Nonprovisional Application was filed indicating that an oath or declaration executed by inventors Mokiwake, Tanabe, and Nagao was missing and required. The notice also required a $130.00 surcharge for the late filing of the proper oath or declaration. On January 20, 2004, a communication titled Withdrawal of Previous Sent Notice was filed withdrawing the Notice to File Missing Parts of Nonprovisonal Application mailed December 1, 2003; the communication of January 20, 2004, also included a new Notice to File Missing Parts of Nonprovisional Application again requiring a surcharge and an oath or declaration executed by inventors Mokiwake, Tanabe, and Nagao.

Petitioner requests that the Notice to File Missing Parts of Nonprovisional Application mailed January 20, 2004, be vacated because a declaration executed by inventors Mokiwake, Tanabe, and Nagao was filed previously in response to the notice mailed December 1, 2003, and in duplicate with the instant petition.

A review of the contents of the application did not reveal a declaration executed by inventors Mokiwake, Tanabe, and Nagao. The review of the contents of the application revealed a declaration filed December 15, 2003, executed by inventors Ishihara, Yamanaka, and Mizuno only. Further, the declaration filed February 3, 2004, was also executed by inventors Ishihara, Yamanaka, and Mizuno only. As no evidence was provided that supports the argument that the declaration filed August 8, 2003, was executed by all named inventors, the Notice to File Missing Parts of Nonprovisional Application mailed January 20, 2004, was properly issued and will not be vacated. Petitioner is, therefore, required to comply with the Notice to File Missing Parts of Nonprovisional Application within the allowable period, or provide some evidence that the declaration was complete on August 8, 2003.

The application file will be returned to the Office of Initial Patent Examination to await a proper response to the Notice to File Missing Parts of Nonprovisional Application.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Jordon and Hambugr, LLP
122 E. 42nd Street
Suite 4000
New York, NY 10168

In re Application of

Ishihara, et al.

Application No. 10/637,870

Filed: August 8, 2003

Attorney Docket No. F-7103

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182 filed June 22, 2004, to have the "Notice to File Missing Parts of Nonprovisional Application"("Notice"), mailed January 20, 2004, vacated.

The decision is **GRANTED**.

On August 8, 2003, the above-identified application was filed. On December 1, 2003, the Notice was mailed indicating that an oath or declaration executed by inventors Mokiwake, Tanabe, and Nagao was missing and required. The Notice also required a $130.00 surcharge for the late filing of the proper oath or declaration. On January 20, 2004, a communication titled, Withdrawal of Previous Sent Notice was filed withdrawing the Notice to File Missing Parts of Nonprovisional Application mailed December 1, 2003; the communication of January 20, 2004, also included a new Notice to File Missing parts of Nonprovisional Application again requiring a surcharge and an oath or declaration executed by inventors Mokiwake, Tanabe, and Nagao.

Petitioner requests that the Notice of January 20, 2004, be vacated because a declaration executed by inventors Mokiwake, Tanabe, and Nagao was filed previously in response to the notice mailed December 1, 2003, and in duplicate with the previous petition under 37 CFR 1.182, and also with the instant petition.

Petitioner is advised that the declaration executed by inventors Mokiwake, Tanabe, and Nagao was again not found with the instant renewed petition in the Image File Wrapper, despite petitioner's assertion that several copies of the executed declarations were previously filed. It is noted, however, that the subject application is a continuation of application 09/919,531 and that the inventors and subject matter of the subject application and application 09/919,531 are the same. Pursuant to 37 CFR 1.63(d), the declaration filed in application 09/919, 531 was copied and will be scanned into the Image File Wrapper of the subject application.

The evidence is convincing that a copy of the executed declaration from application 09/919,531 accompanied the original application papers and was subsequently misplaced by the Office. The Notice to File Missing Parts of Nonprovisional Application is vacated, accordingly.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

1761

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Alan D. Kamrath
Rider Bennett, LLP
Suite 2000
333 South Seventh Street
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of
Scharfman
Application No. 10/637,879
Filed: August 8, 2003
Attorney Docket No. 15963-106
For: DRIED CHEESE SNACK AND METHODS OF MAKING THE SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 11, 2003, requesting that Figures 1, 2, and 3, omitted from the initial filing on August 8, 2003, be included in the original disclosure of the above-identified application and that the application be accorded a filing date of August 8, 2003.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was filed on August 8, 2003. However, on November 19, 2003, The Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of August 8, 2003, and advising applicant that Figures 1, 2, and 3 referenced in the specification appeared to have been omitted.

In response, the present petition was filed.[1] Petitioner argues that the figures should be included in the disclosure filed on August 8, 2003, because Figures 1, 2 and 3 do not constitute new matter. In the event that a filing date of August 8, 2003 is not accorded to the application, petitioner requests that a filing date of August 13, 2003 be accorded because August 13, 2003 is the date that Figures 1, 2, and 3 were allegedly submitted by facsimile to the Office.

The mailing of the Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64

[1] Pursuant to petitioner's request, deposit account no. 50-1188 will be charged a $130.00 petition fee.

referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In this case, petitioner does not assert that the missing figures were actually deposited in the PTO on August 8, 2003. Petitioner asserts that Figures 1, 2, and 3 are fully described in the specification filed on August 8, 2003 and do not contain new matter. Whether the later filed drawings contain new matter is not the issue. Either the drawings were present in the Office on the filing date of the application or they was not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application.

Applicant does not allege in the petition that Figures 1, 2, and 3 were present in the Office on August 8, 2003, and a review of the file confirms that Figures 1, 2, and 3 were not present on August 8, 2003. Therefore, the application cannot be accorded a August 8, 2003 filing date with the drawings of Figures 1, 2, and 3 as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Of course, applicant may submit the drawings of Figures 1, 2, and 3 as an amendment to the drawings in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

In the alternative, petitioner requests a filing date of August 13, 2003 for the application. Petitioner asserts that Figures 1, 2, and 3 were filed via facsimile on August 13, 2003. The Office has no record of receiving the August 13, 2003 facsimile. Even if the Office did, it would not entitle applicant to a filing date of August 13, 2003 for the application because 37 CFR 1.6(d)(4) states that facsimile transmissions of drawings for purposes of obtaining a filing date are not permitted and, if submitted, will not be accorded a date of receipt.

The earliest date that can be accorded to this application with Figures 1, 2, and 3 as part of the disclosure is November 28, 2003, which the date that Figures 1, 2, and 3 were received in the Office. The certificate of mailing date of November 24, 2003 found on the transmittal letter for the drawings cannot be recognized for purposes of according a filing date. 37 CFR 1.8(a)(2)(I)(A).

The November 28, 2003 filing date has not been accorded to the application because petitioner has not requested it and the supplemental declaration submitted with the instant petition references the drawings as being filed by facsimile on August 13, 2003. As stated above, the August 13, 2003 filing date for the facsimile drawings will not be recognized.

If petitioner possesses an itemized date stamped return receipt postcard with an Office date stamp of August 8, 2003 affixed thereto, petitioner should submit it in any reconsideration petition.

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

The application is being returned to Initial Patent Examination Division for further processing with a filing date of **August 8, 2003**, and indication in Office records that 2 sheets of drawings were present on filing. Figures 1, 2, and 3 will not be considered as part of the original disclosure.

Thereafter, the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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OFFICE OF PETITIONS

In re Patent No. 7,122,580
Issued: October 17, 2006
Application No. 10/637,900
Filed: August 8, 2003
Attorney Docket No: **41305-287128**

ON PETITION

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed March 26, 2007. The request is being treated as a petition 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.33d 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 and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FRANCIS LAW GROUP
1942 EMBARCADERO
OAKLAND CA 94606

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OFFICE OF PETITIONS

In re Patent of :
Stummer :
Patent No. 6,843,351 :
Issue Date: January 18, 2005 : Decision on Request
Application No. 10/637,902 :
Filing Date: August 8, 2003 :
Attorney Docket No. LP-02-015 :

This is a decision on the request filed under 37 CFR 3.81(b) to accept the correction of the assignee data after the patent has issued.

The request under 37 CFR 3.81(b) is **granted**.

37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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LEVIN ALEXANDER
5A SHVIL HACHAL
BINYAMINA 30500 IL ISRAEL

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OFFICE OF PETITIONS

In re Application of
Alexander Levin :
Application No. 10/637,904 : DECISION ON
Filed: August 11, 2003 : PETITION
Title: Cryosurgical Instrument and :
Its Accessory System

This is in response to the petition to revive under 37 CFR 1.137(b), filed July 13, 2006.

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

The above application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed February 8, 2006. No issue fee having been received, the application became abandoned on May 9, 2006. A Notice of Abandonment was mailed on June 23, 2006.

With the instant petition, petitioner paid the petition and issue fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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65 LIVINGSTON AVENUE
ROSELAND, NJ 07068-1791

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OFFICE OF PETITIONS

In re Application of :
Barker, et al. :
Application No. 10/637,908 :
Filed: August 8, 2003 :
Attorney Docket No. 13575-41 :

DECISION NOTING JOINDER OF INVENTOR

This is in response to the papers styled, "Request To Withdraw Petition Filed Under 37 CFR 1.47(a)," filed June 10, 2004, which has been treated as a petition for joinder in the above-identified application.

The petition is **granted**, and the petition under 37 CFR 1.47(a), filed June 8, 2004, is dismissed as moot.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Linda M. Trebing in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, this application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper.

The file is being forwarded to Technology Center 1700 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Barker, et al. :
Application No. 10/637,908 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 13575-41 :

This is a decision on the petition under 37 CFR 1.10(c), filed June 28, 2004, requesting the PTO to accord the correspondence entitled "Response to Notice To File Missing Parts" the correct filing date of June 10, 2004.

Petitioners allege that the correspondence entitled "Response to Notice To File Missing Parts" was deposited in Express Mail service on June 10, 2004, however the post card receipt was returned date stamped June 11, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. ER749927797US showing a "date in" of June 10, 2004.

A review of the application file shows that the "Response To Notice To File Missing Parts," is, in fact, date stamped as received by the PTO on June 10, 2004. It is noted that the erroneous June 11, 2004 date stamp is also found on the correspondence, however, this erroneous date stamp is marked with "MAIL DATE CANCELLED" and the correct June 10, 2004 date stamp is found next to it.

In view of the above, the petition is **GRANTED**.

Accordingly, the correspondence entitled "Response to Notice To File Missing Parts" is entitled to a filing date of June 10, 2004 and has been stamped as such.

Since the instant petition has been granted, no petition fee is required.

the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, 8th FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of: Hara, et al.
Application No. 10/637,910
Filed: August 8, 2003
For: COMPUTER SYSTEM

DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P.§708.02(VIII)

This is a decision on the petition filed July 13, 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.

11/18/04

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

MBS

Pet. Dec.

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In re application of	:	
Alan F. Jankowski et al	:	
Serial No. 10/637,914	:	DECISION ON
Filed: August 8, 2003	:	PETITION
For: SOLID OXIDE MEMS-BASED FUEL CELLS	:	

This is a decision on the petition filed February 6, 2004 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 is granted because the criteria set forth in MPEP 708.02 (V) and (VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Ann M. Lee
P.O. Box 808, L-703
Livermore CA 94551

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In re Application of
Alan F. Jankowski, et al.
Serial Number: 10/637,915
Filed: August 8, 2003
For: SOLID POLYMER MEMS-BASED FUEL CELL

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

This is in response to the petition filed February 6, 2004, 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

Ann M. Lee
ATTORNEY
P.O. Box 808, L-703
Livermore CA 94551

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Ann M. Lee
ATTORNEY
P.O. Box 808, L-703
Livermore CA 94551

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MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of :
JANKOWSKI, et al. :
Application No. 10/637,915 : DECISION ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. IL-10186C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 25, 2007 and re-submitted October 26, 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 April 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 26, 2007. Accordingly, the date of abandonment of this application is April 27, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future 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 Monica A. Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Cc: JOHN H. LEE
LAWRENCE LIVERMORE NATIONAL LAB
7000 EAST AVENUE, L-703
LIVERMORE, CA 94550

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HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO, NY 14202-4040

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APR 17 2008

OFFICE OF PETITIONS

In re Application of :
Mohan Gopalkrishna KULKARNI, et al :
Application No. 10/637,917 : DECISION ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 40494.0000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 September 5, 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 Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1796 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April Wise
Petitions Examiner
Office of Petitions

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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JUL 0 5 2005

Technology Center 2100

In re Application of ACHIWA et al.	:	
Application No.: 10/637,920	:	
Filing Date: August 7, 2003	:	DECISION ON PETITION
For: METHOD FOR CONTROLLING INFORMATION PROCESSING SYSTEM, INFORMATION PROCESSING SYSTEM AND INFORMATION PROCESSING PROGRAM	:	FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed June 13, 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 June 13, 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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ABELMAN, FRAYNE & SCHWAB
10th Floor
666 Third Ave.
New York NY 10017-5621

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OFFICE OF PETITIONS

In re Application of :
Elio Cavagna :
Application No. 10/637,921 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. 206,213 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 12, 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 the issue fee; (2) the petition fee of $770; 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 Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 14,2007

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/637,943 Patent No.: 7226980 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: _____

_____

_____

_____

_____

_____ 1/19/07

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Artico et al. :
Application No. 10/637,949 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. IDX 1020 US :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed December 28, 2006.

This application was held abandoned September 6, 2006 for failure to timely reply to the non-final Office Action mailed on June 5, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed December 15, 2006.

Petitioner asserts that a reply to the non-final Office Action was submitted on December 11, 2006. As evidence, petitioner has submitted a copy of the reply which contains an amendment, and a three month extension of time. The reply includes a certificate of mailing dated December 5, 2006 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of a postcard receipt with an Office stamp of December 11, 2006.

The response received December 11, 2006 has been located. 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.

This application is being forwarded to Technology Center 1600 for further processing.

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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ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Marino Artico et al	:	
Application No. 10/637,949	:	DECISION GRANTING PETITION
Filed: August 7, 2993	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IDX 1020 US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **Dismissed**.

Petitioner is advised that the above case cannot be withdrawn from issue after payment of the issue fee and thereby, make an untimely 1.705(b) petition timely. Therefore, the filing of a petition for Patent Term Adjustment under 37 C.F.R. § 1.705(b), is not a proper submission under 37 CFR 1.114 (request for continued examination).

In view of the above, the RCE fee is being credited to deposit account no. 50-3013.

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JONES DAY
222 EAST 41ST STREET
NEW YORK, NEW YORK 10017

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OFFICE OF PETITIONS

In re Application of	:	
Artico et al.	:	DECISION ON APPLICATION
Application No. 10/637,949	:	FOR
Filed: August 7, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. IDX 1020 US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed January 9, 2008, requesting reconsideration of the initial determination of patent term adjustment mailed with the Notice of Allowance.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On October 1, 2007, the Office mailed a 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 94 days. PALM records indicate that the issue fee payment was received in the Office on December 27, 2007. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended December 27, 2007.

Accordingly, it is appropriate to dismiss this petition as untimely filed.

A decision on the concurrently filed PETITION UNDER 37 C.F.R. §1.313(c)(2) FOR WITHDRAWAL OF THE APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE is being issued under separate cover. Applicants are advised, however, that an application for patent term adjustment is not a submission under §1.114. Accordingly, the filing of this application as such does not overcome the conclusion that the application for patent term adjustment is untimely filed.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
Artico et al. :
Application No. 10/637,949 : LETTER REGARDING
Filed: August 7, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. IDX 1020 US :

This is in response to the "COMMUNICATION AFTER ALLOWANCE" filed February 22, 2008. Pursuant to Comment 43 and applicants' duty of good faith and candor to the Office, applicants disclose that the patent term adjustment should be reduced by ninety-one (91) days to 3 days.

The request for review of the patent term adjustment indicated in the Notice of Allowance mailed October 1, 2007 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 zero **(0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

By decision mailed January 16, 2008, the initial "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed January 9, 2008 was dismissed as untimely filed as it was filed after payment of the issue fee. However, on instant filing, applicants have clarified that the paper filed January 9, 2008 was intended as a comment letter pursuant to Comment 43 to disclose that the patent term adjustment indicated in the Notice of Allowance was too great.

Preliminarily, it is noted that no fee is required in connection with a Comment 43 letter. Accordingly, the fee submitted

January 9, 2008 is being refunded to Deposit Account No. 50-3013.

With respect to the merits of this comment letter, on October 1, 2007, the Office mailed a 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 94 days. Applicants disclose that an additional period of adjustment of 91 days should have been entered due to applicants' filing of a response on December 5, 2006, to the non-final Office action mailed on June 5, 2006.

Applicants are correct that an additional period of reduction pursuant to 37 CFR 1.704(b) should have been entered in association with the response to the Office action. However, the period of reduction is 97 days, not 91 days. The response to the Office action mailed June 5, 2006, was received in the Office on December 11, 2006 with a certificate of mailing dated December 5, 2006. However, as stated in 1.703(f), "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, the period of reduction pursuant to 37 CFR 1.704(b) is 97 days, counting the number of days beginning on September 6, 2006, the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on December 11, 2006, the date the reply was filed.

By decision mailed January 15, 2008, the PETITION UNDER 37 C.F.R. §1.313(c)(2) FOR WITHDRAWAL OF THE APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE filed January 9, 2008 was dismissed.

Accordingly, the application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period

does not overlap with periods already accorded). It is noted that it should also be reduced for any applicant delay including any delay pursuant to 37 CFR 1.704(c)(10).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Douglas Neal Rowitch	: DECISION ON REQUEST FOR
Patent Number	: 7580672	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **940** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
R. Allen VAN CAMP	:	
Application No. 10/637,987	:	DECISION ON PETITION
Filed: August 8, 2003	:	TO WITHDRAW
Attorney Docket No. CILIKO.0100	:	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 8, 2008.

The request is **APPROVED**.

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

The request was signed by T.J. Clark on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

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

All future correspondence from the Office will be directed to the assignee at the first copied address below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CILIKO WIRELESS INCORPORATED
3918-MIS HWY., SUITE B
CLARKSON, MI 48348

cc R. ALLEN VAN CAMP
3918 S. ORTONVILLE, ROAD, SUITE C
CLARKSTON, MI 48348

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7250 NORTH SIXTEENTH STREET
SUITE 318
PHOENIX, AZ 85020-5279

Mail Date: 04/21/2010

Applicant	: Kenneth J. Ouimet	: DECISION ON REQUEST FOR
Patent Number	: 7603286	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/637,991	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1832** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED
MAY 2 5 2006
Technology Center 2100

In re Application of: Fujita, et al.
Application No. 10/637,994
Filed: August 8, 2003
For: COMMAND PROCESSING SYSTEM BY A MANAGEMENT AGENT

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, originally filed on March 21, 2005, duplicate filed on October 6, 2005.

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.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of each reference cited within the instant petition, although discussed in detail in the petition, has not been listed on an attached PTO form 1449. To ensure proper consideration, a listing of these references should be provided. Reference is made to Japanese Patent Publication No. 2001-331446.

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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666 THIRD AVENUE
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OFFICE OF PETITIONS

In re Patent No. 7,023,531 :
Issued: April 4, 2006 :
Application No. 10/637,997 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket Number: DT-6603 :

This is a decision on the petition, filed May 25, 2006, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, JENOPTIK LASER, OPTIK, SYSTEME GMBH, was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) filed December 29, 2005. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, the copy of the recorded assignment reflect that JENOPTIK LASER,

---

[1] *See* Official Gazette of June 22, 2004

OPTIK, SYSTEME GMBH is an assignee of an undivided one half interest in the patent identified above. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

U.S.Patent Operations/RVP
Dept. 4300, M/S 27-4-A
Amgen Inc.
One Amgen Center Drive
Thousand Oaks Ca 91320-1799

In re Application of
Doherty et al.
Application No. 10/638,009
Patent No. 7,032,626
Filed: Aug. 8, 2003
Attorney Docket no: A-823

: DECISION GRANTING PETITION

This decision is in response to Patentees"APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on June 23, 2006, requesting that the Patent Term Adjustment be adjusted from a determination of 222 days to a determination of 255 days at the time of the mailing of the notice of allowance.

Patentees' petition is **GRANTED**. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Patentees have filed this petition to request that the IDS reduction for the supplemental IDS submitted be waived because applicants herein submit a certification statement pursuant to 37 CFR 1.704(d).

Applicants have reviewed applicants' certification statement and deems such certification statement compliant with the requirements of the rule. 37 CFR 1.704(d) states:(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.**

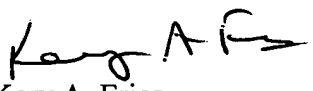
[1]Issue fee paid on June 29, 2006

Accordingly, because the Office has found such certification statement compliant with the rules, the USPTO will not consider the IDS submission a reduction under 37 CFR 1.704(c)(8) or any other failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application.

After mailing of this decision, this application will be forwarded to the Office of patent publication for a prompt issuance of the application.

The Office has assessed the $200.00 fee to Deposit Account 01-0519. No additional fees are required in the consideration of this application for patent term adjustment.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation

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TECHNOLOGY CENTER 3600

Glen E. Books, ESQ.
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

In re application of
Jeffrey Davidovitch et al.
Application No. 10/638,019
Filed: August 8, 2003
For: DIVERSIFIED FIXED INCOME PRODUCT AND METHOD FOR CREATING AND MARKETING SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on November 7, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (E) above. The petition does provide a general discussion of the cited references; however, the discussion does not make it clear how the claimed invention is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). Applicant has not specifically indicated the claim language that distinguishes the claimed invention over the cited prior art. Applicant is required to provide a more detailed discussion of how the claimed subject matter is patentable over each of these references.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

SUMMARY: Petition to Make Special **DISMISSED**.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 7/20/04

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GLEN E. BOOKS, ESQ.
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Mail Date: 04/21/2010

Applicant	: Jeffrey Davidovitch	: DECISION ON REQUEST FOR
Patent Number	: 7634435	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/638,019	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IRELL & MANELLA LLP
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OFFICE OF PETITIONS

In re Application of
Ho-Yul Bang, et al.
Application No. 10/638,029
Filed: August 8, 2003
Attorney Docket No. 155634-0143

ON PETITION

This is a decision in response to the petition, filed October 3, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed February 21, 2007. A Notice of Abandonment was mailed on September 13, 2007. In response, on October 3 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2627 for consideration of the amendment filed October 3, 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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Cai et al. :
Application No. 10/638,032 : ON PETITION
Filed: August 8, 2003 :
Attorney Docket No. ORT-1480CON1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed November 23, 2004, 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 December 24, 2004. A Notice of Abandonment was mailed June 6, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2160.00 extension of time fee submitted with the petition on June 3, 2005 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 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Borst et al.	:	
Application No. 10/638,094	:	ON PETITION
Filed: 7 August, 2003	:	
Attorney Docket No. 128834-2	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 23 June, 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 a final agency decision.

This application became abandoned on 11 May, 2005, for failure to timely submit the issue and publication fee in response to the Notice of Allowance and Fee(s) Due mailed on 10 February, 2005, which set a three (3) month statutory period for reply. On 1 April, 2005, petitioners attempted to file a Request for Continued Examination, but the request was not accompanied by the proper fee. Petitioners were notified on 20 June, 2005, that the RCE was improper.

Petitioners assert that the delay was unavoidable due to an error with regards to the deposit account. Specifically, petitioners state that after the RCE transmittal form, which authorized the RCE fee to be charged to Deposit Account No. 07-0862 was filed, counsel learned that "the deposit account was no longer to be used and fees were to be paid by credit card." Petitioners further aver that a clerical error occurred on the part of

counsel's secretary, Colleen Brennan, in that she did not maintain sufficient funds in the deposit account.

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 (1) and (3), above.

In regards to item (1), as the application has become abandoned for failure to pay the issue fee, the issue fee must be paid as a condition of reviving the application. As stated in 37 CFR 1.137(a)(1) 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. Therefore the issue fee must be submitted with any renewed petition.

Petitioner is advised that the issue fee paid in the present application cannot be refunded. However, if the application is allowed again, petitioner may request that the issue fee be applied towards the issue fee required by the new Notice of Allowance.[1]

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[1] The request to apply the issue fee to the new Notice of Allowance must be made in writing and should be accompanied by the new Issue Fee Transmittal Form (PTOL-85(b)),

In regards 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.[2]

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.[3]

Petitioners' arguments have been considered, but are not persuasive. With regard to petitioners' apparent contention that the application was unavoidably abandoned due to a clerical error, this point is not well taken because petitioner's registered patent attorney signed the RCE transmittal form. As such, it was incumbent on petitioners' counsel to ensure that sufficient funds were in the deposit account listed on the RCE

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along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due at the time of payment must be submitted. **Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice of Allowance and payment of any balance due will result in the abandonment of the application.**

[2] 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."

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

transmittal prior to submitting the RCE Transmittal form. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit.[4] Moreover, petitioners state that "[s]hortly after the submittion of the RCE and IDS Applicants' attorneys were notified ... that the deposit account was no longer to be used." There is no showing that any action was taken, however, to provide the correct fee information for the RCE request until the filing of the present petition.

While petitioners are correct that a clerical error may constitute unavoidable delay, the error in this case is a mistake by counsel himself rather than a clerical error by a reliable and trusted employee. Mistakes by an attorney, unlike those of an employee of counsel, are not a source of unavoidable error.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[5] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[6]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[7] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[8]

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioner's counsel in failing to timely file a reply rather than as a result of

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[4] 37 CFR 1.25(a).

[5] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[6] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[7] Id.

[8] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

unavoidable delay. 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). Thus, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b),[9] 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).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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[9] 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 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)).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

The fee for the petition under 37 CFR 1.137(a) will be charged to counsel's deposit account, No. 06-1130, as authorized in the present petition.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Privacy Act Statement

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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DIW Oct-05

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Borst et al.	:	
Application No. 10/638,094	:	ON PETITION
Filed: 7 August, 2003	:	
Atty Dckt No. 128834-2	:	

This is a decision on the petition filed on 2 September, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on 11 May, 2005, for failure to file a timely and proper response to the Notice of Allowance and Fee(s)Due mailed 10 February, 2005, which

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

set a three-month statutory period to reply. The filing of present petition precedes the mailing of Notice of Abandonment. The petition under 37 CFR 1.137(a) filed on 23 June, 2005, was dismissed on 1 August, 2005.

With the present petition, petitioner filed a RCE under 37 CFR 1.114, including a submission in the form of an IDS. The Office notes that payment of the issue fee is the required reply in order to revive the application for failure to submit a timely response to the Notice of Allowance.

Petitioner is advised that the issue fee paid in the present application cannot be refunded. However, if the application is allowed again, petitioner may request that the $1,400.00 be applied towards the issue fee required by the new Notice of Allowance.[2]

The application file is being referred to Technology Center Art Unit 1775 for consideration of the IDS filed on 2 September, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

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

---

[2] The request to apply the issue fee to the new Notice of Allowance must be made in writing and should be accompanied by thenew Issue Fee Transmittal Form (PTOL85(b)), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due at the time of payment must be submitted. **Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice of Allowance and payment of any balance due will result in the abandonment of the application.**

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

CANTOR COLBURN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CONNECTICUT 06002

In re Application of :
Borst et al :
Application No. 10/638,094 : ON PETITION
Filed: August 7, 2003 :
Attorney Docket No. 128834-2 :

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 2, 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 1775 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).

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. _____

Date : December 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Keith M. Borst et al
Application No. :10/638,094
Filed :August 7, 2003

The above-identified application has been assigned Patent No. 6,986,927 and an issue date of January 17, 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 January 17, 2006:

"All reference to Patent No. 6,986,927 to Keith M. Borst et al of New York for DATA STORAGE MEDIUM AND METHOD FOR THE PREPARATION THEREOF appearing in the Official Gazette of January 17, 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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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Keith M. Borst et al.
Application No. 10/638,100
Filed: August 7, 2003
Attorney Docket No. 128838-2

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 2, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on May 10, 2005 for failure to pay the issue fee within three months of the Notice of Allowance mailed February 9, 2005.

On April 1, 2005, petitioner filed a Request for Continued Examination (RCE), however, on July15, 2005, a Notice of Improper Request for Continued Examination (RCE) was mailed advising that the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114 had not been submitted. Thus the application became abandoned. The instant RCE, payment of the Issue Fee and Publication Fee and petition to revive, filed September 2, 2005, as well as this decision, precede the mailing of a Notice of Abandonment.

The application is being forwarded to Technology Center 1775 for processing of the RCE filed September 2, 2005.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Quine Intellectual Property Law Group, P.C.
P.O. Box 458
Alameda, CA 94501

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AUG 1 1 2008

In re Application of	:	
Curtis R. Kautzer, et al.	:	
Application No. 10/638,113	:	DECISION ON PETITION
Filed: August 8, 2003	:	TO WITHDRAW
Attorney Docket No. 77-000200US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Quine Intellectual Property Law Group, P.C. has been revoked by the assignee of the patent application on May 13, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Goodwin Procter LLP**
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/5/08 Paper No.: —

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/635126 Patent No: 7115637 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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE 1624 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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BOURQUE & ASSOCIATES, P.A.
SUITE 301
835 HANOVER STREET
MANCHESTER, NH 03104

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OFFICE OF PETITIONS

In re Application of	:	
Mitz, Howard S.	:	
Application No. 10/638,134	:	ON PETITION
Filed: August 8, 2003	:	
Attorney Docket No. MITZ-004XX	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 22, 2005

Stephen Y. Pang
Townsend and Townsend
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834

In re Application of:
David DiFrancesco
Serial No: 10/638,135 On Petition
Filing Date: August 8, 2003
For: **CONFIGURABLE FLAT PANEL IMAGE TO FILM TRANSFER METHOD AND APPARATUS**

In response to the petitions received by fax on November 3, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 4, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned January 6, 2004. The notice of abandonment was mailed on December 27, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Nonprovisional Application Papers on December 9, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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.
10/638,182	08/08/2003	Tarun J. Edwin	297912002611	3799

25224 7590 06/21/2006

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER	
STEWART, ALVIN J	

ART UNIT	PAPER NUMBER
3738	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

6

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. EDWIN, TARUN J.
Issue Date: April 19, 2005
Patent No.: 6,881,220
Filed: August 08, 2003
For: METHOD OF RECAPTURING A STENT

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 26, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738
Technology Center 3700

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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: June 13, 2006
TO: Certificates of Correction Branch
FROM: Corrine M. McDermott
SPE, Art Unit 3738
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,881,220 as specified on the attached Certificate.

Corrine M. McDermott

Corrine M. McDermott, SPE
Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,881,220
Patented: April 19, 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:

Tarun J. Edwin, Chandler, AZ (US)

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738

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. 6,881,220
Issue Date: April 19, 2005
Appl No.: 10/638,182
Filed: August 08, 2003
For: METHOD OF RECAPTURING A STENT

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 26, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738
Technology Center 3700

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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: May 1, 2006
TO: Certificates of Correction Branch
FROM: Corrine M. McDermott
SPE, Art Unit 3738
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,881,220 as specified on the attached Certificate.

Corrine M. McDermott, SPE
Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,881,220
Patented: April 19, 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:

Tarun J. Edwin, Chandler, AZ (US)

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JUN 16 2005

RALPH WESSEL
3166 Shearer Avenue
Cayucos, CA 93430

In re application of
Ralph Wessel
Application No. 10/638,203 : DECISION ON REQUEST
Filed: August 11, 2003 : FOR WITHDRAWAL OF
For: LIGHT BULB PULLER : ATTORNEY

This is a decision on the request filed on May 05, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the attorney making the request; Thomas Lebens, does not now have, and apparently never has had, power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/26/05

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Alexandria, VA 22313-1450
www.uspto.gov

HERCULES INCORPORATED
1313 N MARKET ST
WILMINGTON DE 19894-0001

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OFFICE OF PETITIONS

In re Application of
John N. Kostas :
Application No. 10/638,204 : DECISION ON
Filed: August 11, 2003 : PETITION
Attorney Docket No. 10127 :

This is in response to the petition under 37 CFR 1.137(b), filed December 13, 2005, 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 respond to the non-final Office action mailed April 20, 2005. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on July 21, 2005. The Office mailed a Notice of Abandonment on December 5, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The matter is being forwarded to Group Art Unit 1623 for consideration of the amendment filed December 13, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES CA 90045

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Chris N. Conteas	:	
Application No. 10/638,213	:	DECISION GRANTING PETITION
Filed: 7 August, 2003	:	
Attorney Docket No. 03-044-T	:	

This is a decision on the petition, filed on 18 January, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 11 May, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication stating that the projected publication date is 5 May, 2005, is enclosed with this decision.

This application is being referred to Technology Center Art Unit 3739 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW
DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of

Vanderveen, et al.

Application No. 10/638,219

Filed: August 8, 2003

Attorney Docket No.
2002P13157US01; 60,427-60

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 17, 2005, to revive the above-identified application. This also a decision on the petition under 37 CFR 1.137(b), filed October 17, 2005, which was filed in the alternative.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed February 23, 2005, which set a shortened statutory period for reply of three (3) months. A response was filed on April 20, 2005, which failed to place the application in condition for allowance. An Advisory Action informing applicant of the same was mailed on August 22, 2005. A proper response to the final Office action was not received within the allowed period, and the application became abandoned on May 24, 2005. A Notice of Abandonment was mailed on September 23, 2005.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[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(1); (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 required by 37 CFR 1.137(c).

[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 instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]
The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a

Application of the standard to the current facts and circumstances

Petitioner maintains that the abandonment of this application was unavoidable because the examiner assigned this application did not make a timely determination of whether the amendment after final filed April 20, 2005, placed the application in condition for allowance.

With regard to item (3) above, the aforementioned argument that the above-cited application was unavoidably abandoned has been considered, but does not establish that the abandonment of the application was unavoidable. Applicant ultimately bears the responsibility for filing a proper response to the final Office action before the expiration of the statutory period for reply, notwithstanding the Office's apparent delay in considering the amendment. Certainly, the delay in the Office 's consideration of the amendment is regrettable, however; this delay did not relieve petitioner of the responsibility of filing a proper reply to the Final Office action within the allowed statutory period, whether that response be in the form of a Notice of Appeal, amendment and/or a Request for Continued Examination. Further, the delay in filing a proper response to the final Office action cannot be considered unavoidable because petitioner always had the option of filing a Request for Continued Examination to be considered in the alternative if the amendment filed April 20, 2005, failed to place the application in condition for allowance. The petition under 37 CFR 1.137(a), is therefore, dismissed.

Deposit account 50-1482 will be charged $500.00 for the petition fee.

TREAMENT UNDER 37 CFR 1.137(b).

Petitioner has established that the delay in filing a proper response to the final Office action was unintentional. Examiner Katrina Harris has determined that the amendment filed October 17, 2005, places the application in condition for allowance. The petition under 37 CFR 1.137(b) is granted, accordingly.

Deposit account 50-1482 will be charged $1,500.00 for the petition fee.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being forwarded to Technology Center 3700, GAU 3747 for further processing.

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different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Vaderveen, et al. : DECISION ON PETITION
Application No. 10/638,219 :
Filed: August 8, 2003 :
Docket No.: 2002P13157US01; :
60,427-60 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 13, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed January 12, 2006. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed June 9, 2006.

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 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 will be forwarded to the Office of Patent Publication 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

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FEB 27 2004

OFFICE OF PETITIONS

In re Reissue Application of :
Miyata :
Reissue Application No. 10/638,222: :
Filed: August 7, 2003 :
Seeking Reissue of Patent No. 6,400,504 : DECISION DISMISSING PETITION
Issue Date: June 4, 2002 : UNDER 37 CFR 1.182
Filed: June 13, 2001 :
For: REAR PROJECTION SCREEN HAVING :
REDUCED SCINTILLATION :

This is a decision on the petition filed January 2, 2004, requesting under 37 CFR 1.182 that the USPTO "accept and file" in the above-identified reissue application the terminal disclaimer from the original application that matured into the above-identified patent.

The petition is **dismissed as moot.**

Petitioner requests that, due to the incorporation by reference statement contained in the above-identified reissue application as filed, the terminal disclaimer filed during the prosecution of the original application and as such, contained therein, likewise be included herein, and the filing date retained.

Briefly put, it is not necessary to resubmit the terminal disclaimer in the instant reissue application to maintain or obtain the filing date of this reissue application. Indeed, it is not necessary to resubmit the terminal disclaimer in the instant reissue application for any reason.

As explained in MPEP 1490, Section B, reissuing the original patent by way of this reissue application will not withdraw or otherwise nullify the effect of the terminal disclaimer recorded against the original patent. In other words, the term of the original patent grant, to the extent that it was lessened by way of the above-noted terminal disclaimer recorded against the original patent must and will, as a requirement of law, remain unchanged as the term for any reissue patent granted to this reissue application. See 35 U.S.C. § 251 ("the Director shall..reissue the patent...for the unexpired part of the term of the original patent."

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy