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OCT 27 2004
TECHNOLOGY CENTER 3600

Davidson Berquist
Kilma & Jackson LLP
Suite 920
4501 North Fairfax Drive
Arlington, VA 22203

In re application of
James C. Beattie
Application No. 10/647,304 : DECISION ON REQUEST
Filed: August 26, 2003 : FOR WITHDRAWAL OF
For: TIE ROD JAM NUT : ATTORNEY

This is a decision on the request filed on July 23, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B) while a reason may be provided by referencing a **specific** portion of 37 CFR 10.40, simply not reciting a reason, is insufficient. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (c)(1)-(6).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb:10/19/04

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Pilon, et al. :
Application No. 10/647,371 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 116142/85 :

This is a decision on the petition filed on July 31, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Office action mailed on June 15, 2006, which set a shortened period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on July 16, 2006. The Office mailed a Notice of Abandonment on May 15, 2007.

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

The matter is being forwarded to Group Art Unit 1647 for consideration of the Election, filed July 31, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/24/08

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/647377 Patent No: 7090332 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The request for certificate correction has been approved.

MATTHEW LUU — SPE

2861 — Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080422

DATE : April 25, 2008

TO SPE OF : ART UNIT 2111

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:

SPE: /Mark Rinehart/ Art Unit 2111

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P.O. Box 1450
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OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of
Michel K. Bowman-Amuah
Application No. 10/647,411
Filed: August 25, 2003
Attorney Docket No. 060021-376302
For: Context Sensitive Advertisement Delivery Framework

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed June 22, 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(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1).

As to item (1), petitioner must establish that the non-signing inventor refused to sign the oath or declaration after being presented with the application papers. Petitioner has failed to establish that the non-signing inventor was presented with a copy of the application. An inventor cannot sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. Refusal within the meaning of 37 CFR 1.47 requires that the inventor be presented[1] with the application papers and given adequate time to review the contents of the application. Until the inventor reviews the papers and reads the specification and claims, he cannot know if he is actually an inventor of the claimed invention. Petitioner should send a copy of the application to the inventor along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

[1] It is not sufficient for an applicant to simply make the papers available. See MPEP, Section 409.03(d).

The petition fee of $130 will be charged 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
P.O. Box 1450
Alexandria, VA 22313-1450

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

If a request for reconsideration is filed, and a decision on the new petition is not received within 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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OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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OFFICE OF PETITIONS

In re Application of
Michel K. Bowman-Amuah
Application No. 10/647,411
Filed: August 25, 2003
Attorney Docket No. 060021-376302
For: Context Sensitive Advertisement Delivery Framework

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 5, 2005.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

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.
10/647,420	08/25/2003	William Paul Cook	2002-0848.02/4670-178	2788

7590 06/03/2005

LEXMARK INTERNATIONAL, INC.
ATT: JOHN J. McARDLE, JR.
740 WEST NEW CIRCLE ROAD
LEXINGTON, KY 40550

EXAMINER	
ROYER, WILLIAM J	
ART UNIT	**PAPER NUMBER**
2852	

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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Paper No. 60105

LEXMARK INTERNATIONAL, INC.
Att: John J. McArdle, Jr.
740 West New Circle Road
Lexington, KY 40550

JUN 3 2005

In re Application of:
COOK *et al.*
Serial No.: 10/647,420
Filed: August 25, 2003
Attorney Docket No.: **2002-0848.02/4670-178**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed April 27, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Arthur T. Grimley at (571) 272-2136.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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9-5-09

Patent No. : 7,303,874
Ser. No. : 10/647,423
Inventor(s) : Bavykin, et. al.
Issued : December 4, 2007

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Alice O. Martin
Barnes & Thornburg
P.O. Box 2786
Chicago, Illinois 60690-2786

ej

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.

Kenneth L. Cage, Esquire
McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Okada : DECISION ON
Application No. 10/647,453 : PETITION
Filed: August 26, 2003 :
Attorney Docket No. 44319-069 :

This is in response to the "RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION," filed May 8, 2005. Petitioner requests that the Office accord the above-identified application a filing date of August 26, 2003, with pages 27, 28 and 29 of the specification as a part of the original application disclosure.

Application papers in the above-identified application were filed on August 26, 2003. However, on March 21, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicant that the application papers had been accorded a filing date; however, pages 27, 28, and 29 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (and petition fee). Petitioner asserts that pages 27, 28 and 29 were deposited with the Patent and Trademark Office with the nonprovisional application papers on August 26, 2003, as evidenced by the attached copy of the stamped postcard. Petitioner submits copies of pages 27, 28 and 29 as originally filed.

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 petitioner's postcard receipt reveals that: 1) it was date stamped as received by hand delivery in the USPTO on August 26, 2003; 2) it specifically identifies the items being filed, including "126 pages of Specification" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 126 pages of specification, were filed on August 26, 2003.

The application papers already considered received in the Office on August 26, 2003, were reviewed along with the missing pages of specification submitted on petition. These papers together constitute the items described on the postcard receipt, including 126 pages of Specification. Petitioner has shown that pp. 27, 28, and 29 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. The fee, although authorized, will not be charged to the Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of August 26, 2003, using the application papers received in the Office and presently accorded that date; and pages 27, 28 and 29 of the specification resubmitted on petition filed May 9, 2005;

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Any questions regarding the withdrawn Notice mailed November 26, 2003 should be directed to OIPE. No such Notice appears to be of record in this application (Although it is of record that the Notice was withdrawn).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

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

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Kitano et al. :
Application No. 10/647,454 : ON APPLICATION FOR
Filed: August 26, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. Q76961 :
Title: POLYMER COMPOUND AND :
POLYMER LIGHT-EMITTING DEVICE :
USING THE SAME :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed February 4, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred and forty-four (444) days, not zero (0) 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 $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 19-4880 in due course, as authorized on the Issue Fee Transmittal submitted concurrently with this petition. 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

---

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

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JAN 11 2007

OFFICE OF PETITIONS

In re Application of :
Takehiko Sasahara et al :
Application No. 10/647,455 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 8059-1002-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2006, to revive the above-identified application for failure to provide a proper reply to the Notice to File Missing Parts of Nonprovisional Application, mailed June 15, 2004.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 25, 2006.

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

This matters is being referred to Technology Center AU 1624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Steven T. Fink :
Application No. 10/647,469 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 240139US6YA :

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

The application is being referred to Technology Center AU 3742 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
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of :
Buenz et al. :
Application No. 10/647,487 :
Filed: April 30, 2003 : ON PETITION
Attorney Docket Number: :
21220.04136 (GR202AS050) :

This is a decision on the Petition to Withdraw Holding of Abandonment, filed April 17, 2006. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 4, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 5, 2005. A Notice of Abandonment was mailed on March 27, 2006.

Applicant's Assertion

Applicant asserts that a timely reply to the non-final Office action was timely filed on August 4, 2005.

A review of Application file reveals that an Amendment was received in the Office and placed in that application on August 4, 2005. The same Amendment has been re-filed in this petition. Moreover, this Office mailed an Office action in response to the August 4, 2005 Amendment on April 20, 2006.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 2636 to await Applicant's response to the final office action, mailed April 20, 2006, and for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/2006

TO SPE OF : ART UNIT 2100 (2185)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,073,012

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 – 2900 South Tower ste.9A43A
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.

Ok to enter changes to item (56) Foreign Patent Documents as requested in C of C?

Ernest C. White, LIE (703) 308-9390x122
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:

Foreign reference FR 2,703,859 submitted without English translation. Not considered/initialled See paper #PTO-1449 mailed 3/1/05.

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2185 **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

SWANSON & BRATSCHUN LLC
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH, CO 80129

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Wayne R. Lumpkin :
Application No. 10/647,543 : DECISION GRANTING PETITION
Filed: August 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AVID.18-2/C :

This is a decision on the petition, filed March 16, 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 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 3745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
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).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2006

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/647543 Patent No.: 6,957,534

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Ed Lee — **SPE**

3745 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 13, 2006

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/647543 patent No.: 6,957,534

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Ed Look — SPE

3745 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD, CT 06103

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Alexandros Makriyannis et al :
Application No. 10/647,550 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. UCONAP/206/US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 June 8, 2006, 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 July 9, 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). Accordingly, since the $1080 extension of time submitted on January 3, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1626 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE/PML
INDIANAPOLIS OFFICE
1 INDIANA SQUARE, SUITE 1600
INDIANAPOLIS, MN 46204-2033

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Scott M. Henneberry et al :
Application No. 10/647,560 : DECISION ON PETITION
Filed: August 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 6270/098 :
(PM03-1373)

This is a decision on the petition, filed November 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country in the year 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 previously rescinded.

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

This application is currently before Technology Center Art Unit 2134 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/29/06

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10647569 Patent No.: 6998616

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: Proper Inventive Entity for application should be Lawrence D. Fauro, Robert L. Thomas and Xiaoyan Han. Other entities should be deleted because of the cancelling of original claims 15-34.

SPE

2884
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BRUCE H. TROXELL
TROXELL LAW OFFICE PLLC
5205 LEESBURG PIKE, STE. 1404
FALLS CHURCH, VA 22041

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Leao Wang, et al :
Application No. 10/647,577 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. BHT-3097-119 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on December 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 issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNIVATION TECHNOLOGIES, LLC
SUITE 1950
5555 SAN FELIPE
HOUSTON, TX 77056

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Laughlin G. McCullough, et al. :
Application No. 10/647,600 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 2002U014.US :

This is a decision in response to a petition under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee, filed September 1, 2004[1].

The petition is not signed by an attorney of record. However, the petition is being accepted in accordance with 37 CFR 1.34(a). A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

Petitioner is advised that the issue fee paid on July 23, 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. [2]

[1] The petition filed September 1, 2004 is unsigned. A ratification of the unsigned petition was filed by facsimile transmission on September 2, 2004.

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

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 1713 for consideration of the amendment filed September 1, 2004.

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

cc: Douglas W. Miller
Southwest Patent Services
510 Bering Drive, Suite 300
Houston, TX 77057

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

Law Offices of Clark D. Gross
c/o Russ August & Kabat
Suite 1200
12424 Wilshire Boulevard
Los Angeles, CA 90025-1031

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Gorges, et al. : DECISION ON PETITION
Application No. 10/647,603 :
Filed: August 25, 2003 :
Docket No.: 7148-101A-US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 11, 2004 for failure to timely reply to the non-final Office action mailed May 10, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Justin M. Crank	: DECISION ON REQUEST FOR
Patent Number	: 7641621	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/647,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

MAILED

MAR 0 2 2010

OFFICE OF PETITIONS

In re Application of	:	ON APPLICATION FOR
Ivan Lawrow	:	PATENT TERM ADJUSTMENT
Application No. 10/647620	:	AND REQUEST FOR
Filing or 371(c) Date: 08/25/2003	:	RECONSIDERATION OF
Attorney Docket Number: 286674.122US1	:	PATENT TERM ADJUSTMENT

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 October 20, 2009. Applicants believe that the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be 996 days, not 493 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090518

DATE : May 18, 2009

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: 10/647650

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:

/CURTIS KUNTZ/
Supervisory Patent Examiner, Art Unit 2614

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Foley Hoag, LLP
Patent Group, World Trade Center West
155 Seaport Boulevard
Boston, MA 02110

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AUG 0 4 2006
OFFICE OF PETITIONS

In re Application of :
Sherwin HAN :
Application No. 10/647,672 : DECISION ON PETITION
Filed: September 14, 2005 : TO WITHDRAW
Attorney Docket No. ABK-001.02 : 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 June 2, 2005 and resubmitted September 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 Joseph Born on behalf of all attorneys of record who are associated with customer No. 25181.

All attorneys/agents associated with the Customer Number 25181 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 Sherwin Han at the address indicated below.

There is an outstanding Office action mailed June 12, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sherwin Han
ABSTRACT PRODUCTIONS
21 Linda Avenue
Portsmouth, RI 02871

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061206

DATE : December 6, 2006

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 6,992,628

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: Timothy P. Callahan **Art Unit** 2821

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)
6906168	2005-06-14	10647678	2003-08-25	121798-1-US-NP

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Diderico van Eyl/	Date (YYYY-MM-DD)	2009-08-05
Name	Diderico van Eyl	Registration Number	38641

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

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

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

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

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

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

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

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

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6906168
Issue Date: June 14,2005
Application No. 10647678
Filed: August 25,2003
Attorney Docket No. 121798 (1306-17)

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

This is a decision on the electronic petition, filed August 5,2009 ,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 August 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-06

Paper No: ___

RAYMOND E. FARRELL, ESQ.
CARTER, DELUCA,
FARRELL & SCHMIDT, LLP
SUITE 225
445 BROAD HOLLOW ROAD
MELVILLE NY 11747

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of:
Khouri,et al.
Patent No.: 6,919,418
Issue Date: 19 July, 2005
Application No. 10/647,679
Filed: 25 August, 003
Attorney Docket No.: 124052 (1306-18)

ON PETITION

This is a decision on the request filed on 13 February, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81–the Issue Fee transmittal was submitted with an error as to the assignee identification.

NOTE: **Petitioner is reminded and placed on Notice that the Rules of Practice mandate that Petitioner provide both the application and patent numbers, as well as filing and issue dates, in all matters regarding this patent.**[1]

[1] See: 37 C.F.R. §1.366 and MPEP §2515.

The petition is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §3.81 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) will not be permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.323, §1.183 and §3.81."

(2) Thereafter, there will be no further reconsideration of this matter.

(3) Petitioner is cautioned always to use both the patent number and application serial number, as well as filing date and issue date when addressing matters attendant to this file.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on 25 August, 2003; and
- issued as a patent on 19 July, 2005.

On payment of the Issue Fee, Petitioner failed to indicate properly the assignee(s) for the issuance data.

Petitioner failed to outline properly the history of this matter in the petition.

Petitioner apparently failed to review for guidance in this matter MPEP §307 and §§1480 - 1485. (See, in particular: MPEP §1481.01.)

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

Pursuant to that authorization, the Office has promulgated the regulations set forth at 37 C.F.R. §3.81 that set forth the procedure applicable to the process:

> **§ 3.81 Issue of patent to assignee.**
> (a) *With payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
> (b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
> (c) *Partial assignees.*
>
> (1) If one or more assignee(s) together with one or more inventor(s) hold the entire right, title, and interest in the application, the patent may issue in the names of the assignee(s) and the inventor(s).
> (2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

Specifically, the commentary at MPEP §1481.01 provides that:

> 1481.01 Correction of Assignees' Names [R-3] - 1400 Correction

of Patents

1481.01 Correction of Assignees' Names [R-3]

The Fee(s) Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed in order to comply with 37 C.F.R. 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

Any request for the 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:

(A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and

(C) include the processing fee set forth in 37 C.F.R. §1.17(i).

See 37 C.F.R. §3.81(b).

CONCLUSION

Accordingly, the petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

[2] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 4/21/2009
Patent No. : 7,032,206 B2
Serial No. : 10/647,688
Inventor(s) : Keller et al.
Issue Date : April 18, 2006
Title : **SYSTEM AND METHOD FOR ITERATIVELY TRAVERSING A HIERARCHICAL CIRCUIT DESIGN**
Doc./File No. : **100111238-1**

Re: Certificate of Correction (Reconsideration)

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

Respecting the alleged errors in your request, inspection of the file of the application for the patent reveals that in column 4, line 26, that there is no discrepancy.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

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

ECW

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Paper No.

MAILED

APR 20 2006

Technology Center 2100

Laurence Laubscher Jr.
1160 Spa Rd Ste 2B
Annapolis, MD 21403

In re Application of:
Josef Hallermeier
Application No. 10/647,717
Filed: August 25, 2003
For: HANDHELD DIGITAL MULTIMEDIA WORKSATTION AND METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 21,2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. **See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.**

There is no indication that the patent owner has been notified.

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

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

James R. Matthews

JM

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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 :
Josef Hallermeier et al. :
Application No. 10/647,717 : DECISION ON PETITION
Filed: August 25, 2003 : TO WITHDRAW
Attorney Docket No. 2330 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 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 Lawrence E. Laubscher, Jr. on behalf of all attorneys of record who are associated with Customer No. 24932.

All attorneys/agents associated with the Customer No. 24932 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 Josef Hallermeier at the address indicated below.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Josef Hallermeier
Bergweg 2
Assling, 85617
Germany

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
10/647,717	08/25/2003	Josef Hallermeier	23300

CONFIRMATION NO. 2160

OC000000020310725

OC000000020310725

24932
LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

Date Mailed: 09/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2006.

- 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.

J. 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
P.O. Box 1450
Alexandria, VA 22313-1450
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R. Blake Johnston
PIPER RUDNICK
P.O. Box 64807
Chicago, IL 60664-0807

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OFFICE OF PETITIONS

In re Application of :
John F. DUFF et al. :
Application No. 10/647,725 : DECISION ON PETITION
Filed: August 25, 2003 : TO WITHDRAW
Attorney Docket No. P6769 : 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 28, 2005.

The request is **NOT APPROVED**.

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

The 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, assignee has decided to handle prosecution, does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: John F. Duff
Xcarlet Technologies, Inc.
30672 Rice Creek Drive
Breezy Point, MN 56472

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

R. Blake Johnston
PIPER RUDNICK
P.O. Box 64807
Chicago IL 60664-0807

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OFFICE OF PETITIONS

In re Application of

DUFF, et al.
Application No. 10/647,725
Filed: August 25, 2003
Attorney Docket No. P6769

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 R. Blake Johnson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor John F. Duff at the address indicated below.

There is an outstanding Office action mailed October 10, 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: **John F. Duff**
Xcarlet Technologies, Inc.
30672 Rice Creek Drive
Breezy Point, MN 56472

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

THE HALVORSON LAW FIRM
SUITE 1
405 W. SOUTHERN AVE
TEMPE, AZ 85282

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OFFICE OF PETITIONS

In re Application of :
Karren Moreland, et al. :
Application No. 10/647,726 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 282-005 :

This is a decision on the petition, filed August 14, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 10, 2004. A Notice of Abandonment was mailed on March 25, 2005. On August 14, 2006, 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[1].

The Revocation and Power of Attorney filed August 14, 2006, has not been accepted, as it is not properly signed in accordance with 37 CFR 1.33(b)(4). However, in accordance with 37 CFR 1.34(a), the signature of Louis J. Hoffman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Hoffman 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.

The application is being referred to Technology Center AU 3679 for consideration of the amendment filed August 14, 2006.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LOUIS J. HOFFMAN
14614 N KIERLAND BOULEVARD, SUITE 300
SCOTTSDALE, AZ 85254

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 5/18/09

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/647726 Patent No.: 7517187B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: Corrections approved. However, with respect to the change identified for Col. 6, line 26, it should be noted that this change is to be made for the first occurrence of "body".

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

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SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Iida, :
Application No. 10/647,730 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 42530-5300 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2006, to revive the above-identified application.

This application became abandoned for failure to timely submit corrected formal drawings within three (3) months of the mailing of the Notice of Allowability, mailed November 18, 2005. Accordingly, this application became abandoned on February 19, 2006. A Notice of Abandonment was mailed on April 6, 2006.

Applicant has submitted a proper reply in the form of corrected formal drawings, an acceptable statement of the unintentional nature of the delay in responding to the November 18, 2005 Notice of Allowability, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis 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

OSHA LIANG/MI
ONE HOUSTON CENTER
SUITE 2800
HOUSTON TX 77010

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DEC 18 2006
OFFICE OF PETITIONS

In re Application of	:	
Patel et al.	:	
Application No. 10/647,737	:	ON PETITION
Filed: August 25, 2003	:	
Attorney Docket No. 05542/073001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 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 Reply under 37 CFR 1.114 (RCE previously filed May 22, 2006); (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 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

Paul B. McKee
26 Dogwood Circle
Boynton Beach, FL 33436

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of :
Paul B. McKee :
Application No. 10/647,753 : DECISION ON PETITION
Filed: August 26, 2003 :
For: Dual Flush Adapter – For Toilet Valve :

This is a decision on the petition filed on October 6, 2005, and again on October 20, 2005, which is being treated as a feeless petition under 37 CFR 1.181, to withdraw the holding of abandonment.

On July 7, 2004, the USPTO mailed petitioner a nonfinal Office Action, which set a three-month shortened statutory period for reply. On July 19, 2004, petitioner submitted an amendment in response to the nonfinal Office Action. On August 25, 2004, the USPTO mailed petitioner a Notice of Non-Compliant Amendment, stating that the amendment to the claims filed on July 19, 2004, is considered non-compliant because it failed to meet the requirements of 37 CFR 1.121. The Notice set a one-month extendable period from the mailing of the Notice within which to submit a compliant amendment. On September 26, 2004, the application became abandoned for failure to submit a timely reply to the Notice of Non-Compliant Amendment. On September 2, 2005, the USPTO mailed petitioner a Notice of Abandonment.

PETITION UNDER 37 CFR 1.181:

In the present petition, petitioner stated: "I have no intention of abandonment but every request for change does not seem to get thru to him (Robert Fetsuga – Examiner). I have made every change that he has asked for and sent back to him within 7 days."

After reviewing the documents submitted by petitioner, it does not appear that petitioner filed an amendment in compliance with 37 CFR 1.121 previously or with the present petition in response to the Notice of Non-Compliant Amendment. A copy of the Notice of Non-Compliant Amendment dated August 25, 2004, and a written explanation of the amendment formation required by 37 CFR 1.121 accompany this decision for petitioner's convenience.

In view of the above, the petition to withdraw the holding of abandonment is **dismissed**.

The Office strongly suggests that petitioner file a petition under 37 CFR 1.137(b) to revive the application. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Notice of Non-Compliant Amendment in the form of an amendment in compliance with 37 CFR 1.121.

(2) **The petition fee in the amount of $750.00;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

For petitioner's convenience, a form for filing a petition under 37 CFR 1.137(b) is enclosed.

Before the application can be revived, petitioner must submit a completed petition form, a $750.00 fee, and a compliant amendment to the USPTO as indicated below. Petitioner may wish to seek the advice of a registered patent attorney or agent to assist him in this matter and in prosecuting this application. Additionally, petitioner may wish to contact the Inventors Assistance Center at 800-786-9199 or 571-272-1000.

Correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: PTO/SB/64 - Petition For Revival Of An Application For Patent Abandoned Unintentionally, Privacy Act Statement, Notice of Non-Compliant Amendment, and Revised Amendment Practice Flyer

SPE: J. Nguyen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/4/07

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/647,798 Patent No.: 7018112

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: _____

Judy Nguyen

JUDY NGUYEN
~~**SUPERVISORY PATENT EXAMINER**~~

_____ 2854
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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QUINTERO LAW OFFICE
BROADWAY, 3RD FLOOR
SANTA MONICA CA 90404

In re Application of :
Chen Chung Wang :
Application No. 10/647,814 :
Filed: August 25, 2003 : ON PETITION
For: INFLATABLE PRODUCT :
HAVING AN ELECTRICAL INFLATOR :

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.**

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES E. BAXLEY
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of :
Chun-Yuan Chang :
Application No. 10/647,852 : ON PETITION
Filed: August 21, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 24, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 25, 2004.

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

This matter is being forwarded to Technology Center AU 2151 for further processing.

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

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

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NOV 30 2006
OFFICE OF PETITIONS

In re Application of	:	
David P. Aschenbeck	:	
Application No. 10/647,858	:	DECISION GRANTING PETITION
Filed: August 25, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 25068B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 6, 2006, as required by the Notice of Allowance and Fee(s) Due mailed December 6, 2005. A Notice of Abandonment was mailed on May 4, 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 and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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NOV 29 2005

OFFICE OF PETITIONS

Applicant: Doubler et al.
Appl. No.: 10/647,873
Filing Date: August 22, 2003
Title: WELDED HIP PROSTHESIS
Attorney Docket No.: 2131.022
Pub. No.: US 2005/0043811 A1
Pub. Date: February 24, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 26, 2005, with a certificate of mail date of April 14, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors as the some of the drawings in the published application are from references cited by the Examiner and they include the Examiner's hand written notes.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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TYCO TECHNOLOGY RESOURCES
4550 NEW LINDEN HILL ROAD
SUITE 140
WILMINGTON, DE 19808-2952

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Eric Yang, et al.	:	
Application No. 10/647,878	:	DECISION GRANTING PETITION
Filed: August 25, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17965	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 23, 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 April 3, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/647,888	08/25/2003	1713	2040	124113-1		73	7

CONFIRMATION NO. 3506

CORRECTED FILING RECEIPT

OC000000011832820

006147
GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH CENTER
PATENT DOCKET RM. 4A59
PO BOX 8, BLDG. K-1 ROSS
NISKAYUNA, NY 12309

Date Mailed: 02/04/2004

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)

Daniel Joseph Brunelle, Burnt Hills, NY;
Havva Yagci Acar, Clifton Park, NY;
Farid Fouad Khouri, Clifton Park, NY;
William David Richards, Scotia, NY;

Assignment For Published Patent Application

General Electric Company;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/20/2003

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Copolyetherimides

Preliminary Class

526

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/647,889	08/25/2003	1711	1110	122897-1	6	40	2

CONFIRMATION NO. 3526

CORRECTED FILING RECEIPT

OC000000011878666

General Electric Company
CRD Patent Docket Rm 4A59
Bldg. K-1
P.O. Box 8
Schenectady, NY 12301

Date Mailed: 02/11/2004

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)

Daniel Joseph Brunelle, Burnt Hills, NY;
Hava Yagci Acar, Clifton Park, NY;
Farid Fouad Khouri, Clifton Park, NY;
Thomas Link Guggenheim, Mt. Vernon, IN;
David Winfield Woodruff, Clifton Park, NY;
Norman Enoch Johnson, Mt. Vernon, IN;

Assignment For Published Patent Application

General Electric Company;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2003

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Phase transfer catalyzed method for preparation of polyetherimides

Preliminary Class

528

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/647,890	08/25/2003	1626	1818	128394-1		70	5

CONFIRMATION NO. 3565

CORRECTED FILING RECEIPT

OC000000011892826

General Electric Company
CRD Patent Docket Rm 4A59
Bldg. K-1
P.O. Box 8
Schenectady, NY 12301

Date Mailed: 02/12/2004

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)

Thomas Link Guggenheim, Mt. Vernon, IN;
Daniel Joseph Brunelle, Burnt Hills, NY;
David Winfield Woodruff, Clifton Park, NY;
Lee Harris Bergman, Houston, TX;
Norman Enoch Johnson, Mt. Vernon, IN;
Matthew Hal Littlejohn, Green Island, NY;
Farid Fouad Khouri, Clifton Park, NY;

Assignment For Published Patent Application

General Electric Company;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2003

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for making salts hydroxy-substituted hydrocarbons

Preliminary Class

548

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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DAVID E. GROBER
616 VENICE BLVD.
VENICE CA 90291

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of
David E. Grober
Application No. 10/647,892
Filed: August 25, 2003
Title of Invention: **AUTONOMOUS, SELF LEVELING, SELF CORRECTING ANTI-MOTION SICKNESS CHAIR, BED AND TABLE**

ON PETITION

This is a decision on the petition filed April 10, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

In response to a non-Final Office Action mailed November 21, 2005, which set a three month period for reply, petitioners filed an amendment and two month extension of time request on April 25, 2006. In response, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on June 7, 2006 noting that the amendment filed April 25, 2006 was not in compliance with 37 CFR 1.121(c)(4)(i). The Notice set the longer of one month or thirty days for reply.

A reply was filed July 5, 2006 however, a "Notice" Failure to Acceptably Respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed July 10, 2006.

Petitioner argues that the response filed July 5, 2006 was complete and compliant and based on a telephone conversation between the petitioner and Examiner of Record, the response filed July 5, 2006 was complete and compliant.

The Examiner of record confirms that the amendment filed July 5, 2006 was complete and compliant with 37 CFR 1.121(c)(4)(i) and the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 3617 for appropriate action on the amendment filed July 5, 2006, as a proper response to the non-Final Office Action mailed November 21, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA, VA 22314

In re Application of BLUMENTHAL ET AL.
Appl. No.: 10/647,895
Filed: August 26, 2003
For: Method And Apparatus For Aerating Bodies Of Water

DECISION ON PETITON FOR SUPERVISORY REVIEW
37 CFR 1.181

This is a decision on the petition filed February 24, 2006 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of reversal of the examiner's holding that the Appeal Brief filed on December 13, 2005 is non-compliant.

The petition is **Dismissed**.

On February 3, 2006, the examiner issued a Notification of Non-Compliant Appeal Brief. The examiner held the brief non-compliant because the content of the "Summary of Claimed Subject Matter" contained extraneous subject matter outside of a concise explanation of each independent claim as required by 37 CFR 41.37(c)(1)(v). The examiner additionally indicated this section of the Appeal Brief should be limited to only a discussion of the features in the sole independent claim. Petitioner argues in the instant petition that the examiner's position is "without foundation" and that having the summary contain more information than what is claimed is "beneficial to the Board because such a Summary provides a better understanding of what the specific structure is." Petitioner additionally states that a further benefit of having advantages of the invention in this Summary is that the "Board is apprised, during its initial consideration of the Brief, of what advantages Appellants' structure has." Petitioner finally notes that "Clearly, the Board is able to determine by reading the claims and arguments what Appellants' regard as their invention".

37 CFR 41.37(c)(1)(v) requires that the "Summary of Claimed Subject Matter" section of the Appeal Brief contain a concise explanation of the subject matter found in each independent claim. The intent of the new rule and the changing of this section of the Brief from the previous "Summary of the Invention" to "Summary of Claimed Subject Matter", is to allow patent applicants, as the authors of the application and creators of the invention, to assist the Board in claim construction as to what applicants believe the scope of the recited features found in each independent claim are. It also assists

the Board in contrasting the relative positions of the examiner and the applicants. Finally, requiring that each independent claim be discussed at a minimum instead of just representative claim(s) or the invention as a whole assists the Board in their determination of which embodiments are covered or not covered by the various independent claims in the application, as well as how the scopes of the various claims vary relative to one another (see Comment 53 of Board of Patent Appeals and Interferences (BPAI) Final Rule, **69 Federal Register 49976**).

In reviewing petitioner's "Summary of Claimed Subject Matter", it is clear that there is no distinct concise explanation of the subject matter found in each independent claim. Petitioner's Summary, rather, is a discussion that intermixes features found in the sole independent claim, features found in some dependent claims, as well as some features found in *none* of the claims, without identifying which is which. Thus, in relation to petitioner's initial and third arguments, the examiner's holding that the Brief is non-compliant does in fact have "foundation" in both the letter and intent of the rule, and requiring a new Summary would assist the Board as intended by the rule. Since the entire intent of the rule is to give the Board the appellants' position of the scope of the claims by having applicants map the terms used in each independent claim to the explanation in the specification and elements of the figures, intermixing other claimed elements as well as other argument (advantages over the prior art, etc.) without distinction clouds the issue in this regard. The petitioner's current "Summary of Claimed Subject Matter" does not assist the Board in claim construction and determination of the scope of the independent claim for this reason. Finally, with regards to petitioner's second argument, petitioner is partially correct that the Summary does not have to be limited to *only* what is in the independent claims. If appellants wish to additionally assist the Board in claim construction for the dependent claims they are free to do so, and in fact are required to do so in 37 CFR 41.37(c)(1)(v) for dependent claims that contain "means" and are argued separately. However, the dependent claim limitations should be clearly identified and not intermixed with the core concise explanation of each independent claim so as to not cloud the claim construction of these independent claims. For above given reasons it is believed that the examiner's discretion in holding petitioner's Appeal Brief of December 13, 2005 non-compliant was not abused, and petitioner is not entitled to the relief requested.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Stephen P. Avila, at (571) 272-6678.

John Love
Director, Technology Center 3600

SJM: 3/22/06
SJM

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Suite 5450
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of
Aegerter, et al.
Application No. 10/647,914
Filed: August 26, 2003
Attorney Docket No. 114183-20 (P00-0024US3)

: ON PETITION

This is a decision on the petition, filed January 8, 2007, captioned, "REQUEST TO ADD AN INVENTOR UNDER 37 CFR 1.48 AND PETITION UNDER 37 CFR 1.47(a)." The petition will be treated under 37 CFR 1.48(a) for correction of inventorship and under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration signed by the actual inventors. The petition was supplemented on January 10, 2007 when petitioners filed a replacement declaration executed by Mr. Curt D. Dundas.

The petition under 37 CFR 1.48(a) is **dismissed**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR §§ 1.48 and 1.183.

A declaration, filed on August 21, 2003, listed four joint inventors: Brian K. Aegerter, Curt T. Dundas, Tom L. Ritzdorf, Gary L. Curtis, and Michael Jolley.

Petitioners request that the Office excuse the absence of a signature for Mr. Michael Jolley, a previously signing joint inventor, on the concurrently filed replacement declaration that adds Steven L. Peace as a joint inventor.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating

an inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver petition. See MPEP 603.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record lack compliance with item (3).

Petitioners have not submitted an acceptable declaration. The declaration contains a noninitialed, nondated alterations to information for Inventor Gary L. Curtis. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor Curtis may correct his information in a supplemental declaration identifying the entire inventive entity and their information, but signed only by him. Another option would be to submit a complete ADS.

Petitioners have established that Mr. Michael Jolley has constructively refused to execute the replacement declaration after having received a copy of the application and the declaration. Mr. Jolley requested that his name be removed from the declaration in an e-mail sent September 14, 2006 to Attorney Keith V. Rockey. In view of the constructive refusal by Mr. Jolley to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the declaration. However, because the replacement declaration is defective (see above) and will not be entered, the petition cannot be granted at this time.

A review of financial records indicates that petitioners have paid one processing fee of $130.00 and one petition fee of $200.00. A Rule 183 petition fee of $400.00 is required, rather than a $200.00 Rule 47 petition fee. The $200.00 balance due will be charged to deposit account no. 50-3891.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ROCKEY, DEPKE & LYONS, LLC
SEARS TOWER
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CHICAGO IL 60606-6306

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OFFICE OF PETITIONS

In re Application of
Aegerter, et al.
Application No. 10/647,914
Filed: August 26, 2003
Attorney Docket No. 114183-20 (P00-0024US3)

ON PETITION

This is a decision on the reconsideration petitions, filed August 6, 2007, under 37 CFR 1.48(a) for correction of inventorship and under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration signed by the actual inventors.

The petition under 37 CFR 1.48(a) is **granted**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

The original petitions, filed January 8, 2007, were dismissed on May 29, 2007 for failure to submit an acceptable declaration. Any request for reconsideration of the May 29, 2007 decision was required to be filed within TWO (2) MONTHS from the mail date of the decision. Extensions of time under 37 CFR 1.136(a) were permitted. The present reconsideration petitions were filed on August 6, 2007. Therefore, a one month extension of time is required to make the August 6, 2007 reconsideration petitions timely filed. Pursuant to petitioners' authorization, deposit account no. 50-3891 will be charged a $120.00 one month extension of time.

A declaration, filed on August 21, 2003, listed four joint inventors: Brian K. Aegerter, Curt T. Dundas, Tom L. Ritzdorf, Gary L. Curtis, and Michael Jolley.

Petitioners renew their request that the Office excuse the absence of a signature for Mr. Michael Jolley, a previously signing joint inventor, on the replacement declarations that add Steven L. Peace as a joint inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor

or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record comply with the above-listed requirements.

Petitioners have established that Mr. Michael Jolley has constructively refused to execute the replacement declaration after having received a copy of the application and the declaration. Mr. Jolley requested that his name be removed from the declaration in an e-mail sent September 14, 2006 to Attorney Keith V. Rockey. In view of the constructive refusal by Mr. Jolley to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the declaration. Taken together, petitioners have submitted an acceptable replacement declaration.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1746 for consideration of the RCE and amendment filed on October 30, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SUITE 300
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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Paul Joseph Dominowski :
Application No.10/647,919 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 15634 (PC25246) :

This is a decision on the petition under 37 CFR §1.137(b), filed June 28, 2007.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of December 21, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on March 21, 2007. An Advisory Action mailed on April 30, 2007 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on March 22, 2007. 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**.

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). 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 Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address 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.

The Request for Continued Examination (RCE), and the amendment will be 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

cc: Timothy J. Gumbleton
7000 Portage Road
Kalamazoo, MI 49001

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JUN 15 2004

In re Application of
Steven Davis
Application No. 10/647,930
Filed: August 26, 2003
Attorney Docket No. 4004004.0031

: DECISION ON PETITION

This is a decision on the petition to make special filed on November 17, 2003. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3712 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Patent Examining Groups 3710 and 3720

Adam K. Sacharoff
Much Shelist Freed Denenberg
Ament & Rubenstein, PC
191 N. Wacker Drive
Suite 1800
Chicago, IL 60606-1615

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1200 SEVENTEENTH ST.
DENVER, CO 80202

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OFFICE OF PETITIONS

In re Application of :
Troy A. Dalsing et al :
Application No. 10/647,934 : DECISION ON PETITION
Filed: August 25, 2003 : TO WITHDRAW
Attorney Docket No. DALS001 : 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 28, 2006.

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

A review of the file record indicates that the power of attorney to Michael C. Martensen, along with all of the other attorneys associated with Customer No. **25235** has been revoked by the assignee of the patent application on March 16, 2006. 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/assignee.

This application is being referred to Technology Center AU 3728 to await a reply to the Final rejection mailed May 16, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
TROY A. DALSING
29175 PAINT MINE RD.
CALHAN, CO 80808

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United States Patent and Trademark Office
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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Charles W. Norman	: DECISION ON REQUEST FOR
Patent Number	: 7643500	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/647,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1866** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Hashizume et al. :
Application No. 10/647,943 : ON PETITION
Deposited: August 26, 2003 :
Attorney Docket No.: TI-355328 :

This is a decision on the petition filed August 4, 2004, requesting in effect, that a Notice of Incomplete Nonprovisional Application ("Notice") mailed June 21, 2004, be withdrawn and a filing date granted.

Application papers in the above-identified application were deposited on August 26, 2003. However, on June 21, 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 August 4, 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 "formal drawings" on August 26, 2003.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on August 26, 2003, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 2 sheets of drawings, including figures 1-3, were received on August 26, 2003, as shown in counsel's file, and later misplaced in the Office.

---

[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.

The petition is Granted. No petition fee is required. Accordingly, deposit account 20-0668 is being refunded the $130.00 petition fee.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address 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.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of August 26, 2003**, using the 2 sheets of drawings supplied on August 4, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Michael T. Konczal
P.O. Box 863656
Plano, TX 75086

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KALAMAZOO MI 49001

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OFFICE OF PETITIONS

In re Application of :
PAUL S. KAYTES et al. :
Application No. 10/647,982 : DECISION ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 01313.US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 02, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the restriction requirement mailed January 05, 2006, which set a shortened statutory period for reply of one (1) month. No Extensions of time under the provision of CFR 1.136 (a) was obtained. Accordingly, the above-identified application became abandoned on February 06, 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 election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the restriction requirement mailed January 05, 2006 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Application No. 10/647,982

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence to the undersigned.

This application is being referred to Technology Center AU 1634 for appropriate action on the concurrently filed election.

David Bucci
Petitions Examiner
Office of Petitions

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MICHAEL WINFIELD GOLTRY
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX, AZ 85012

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OFFICE OF PETITIONS

In re Application of :
Spitzer, Shawn D. :
Application No. 10/647,992 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 4220-A1C :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 28, 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 April 9, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 10, 2004. A Notice of Abandonment was mailed November 22, 2004.

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

The correspondence address associated with Customer Number 45848 changed to the above on April 13, 2005. A courtesy copy of this decision is being mailed to the address listed on the instant petition; however, all future correspondence will be directed solely to the address currently of record.

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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MICHAEL W. GOLTRY
340 E. PALM LANE, SUITE 260
PHOENIX, AZ 85004

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1601 ELM STREET
SUITE 3000
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Mail Date: 04/21/2010

Applicant	: Amlan Datta	: DECISION ON REQUEST FOR
Patent Number	: 7651563	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/648,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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ALEXANDRIA, VA 22313-1450
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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DENNIS W. BEECH
19900 BEACH BOULEVARD, SUITE C-2
HUNTINGTON BEACH CA 92648

In re Application of :
C. Earl WOOLFORK :
Application No. 10/648,012 : DECISION ON PETITION
Filed: August 26, 2003 : TO MAKE SPECIAL
For: **FUZZY AUDIO WIRELESS MUSIC SYSTEM** :

This is a decision on the petition filed October 25, 2004, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement),.

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

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

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ATTN: DAPHNE L. BURTON
MCDERMOTT, WILL & EMERY, LLP
34TH FLOOR
2049 CENTURY PARK EAST
LOS ANGELES, CA 90067

COPY MAILED

NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of :
C. Earl Woolfork :
Application No. 10/648,012 :
Filed: August 26, 2003 :
Attorney Docket No. 73785-012 :

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 August 31, 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 October 25, 2004 and again on July 1, 2005.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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 nonprovisional 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 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), 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 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 nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2644 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Any inquiries concerning this decision may be directed to the Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W PITTS
PO BOX 11483
WINSTON-SALEM NC 27116-1483

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
William Andrew Sipe :
Application No. 10/648,013 : DECISION ON PETITION
Filed: 26 August, 2003 :
Atty Docket No. 03025 :

This is a decision on the petition filed on 6 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 January, 2004, for failure to timely submit replacement drawings in compliance with 37 CFR 1.84 and 1.121 as required by the Notice to File Corrected Application Papers mailed on 18 November, 2003, which set a two (2) month shortened period for reply. No extensions of time

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

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

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

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

under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 8 June, 2005.

Receipt of the replacement drawings is acknowledged.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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June 18, 2004

TYCO ELECTRONICS CORPORATION
4550 NEW LINDEN HILL ROAD, SUITE 450
WILMINGTON DE 19808

JUN 20 2004

In re Application of:	:	
Christopher N. Brindle	:	DECISION ON PETITION TO
Application No. 10/648,022	:	MAKE SPECIAL
Filed: August 26, 2003	:	
Attorney Docket No: 17987	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 26, 2003, to make the above-identified application special.

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

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed 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, professional searcher, etc., and a listing of the field of search by class and subclass, (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 is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

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

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

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

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

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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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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AUG 2 8 2007

OFFICE OF PETITIONS

In re Application of
Toshikazu Kobayashi
Application No. 10/648,023
Filed: August 26, 2003
Attorney Docket No. AD6910USNA

ON PETITION

This is a decision in response to the petition, filed May 3, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,500. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is 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
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

OIPE
JUL 22 2004
PATENT & TRADEMARK OFFICE

1754
Cooke

PATENT ANL-IN-03-023 41

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Ruxandra Baurceanu et al.
Serial No.	:	10/648,052
Filed	:	August 26, 2003
Title	:	LAYERED STRUCTURE OF CU-CONTAINING SUPERCONDUCTOR AND AG OR AG ALLOYS WITH CU
Docket No.	:	ANL 273
Date	:	July 7, 2004

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

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c)

SIR:

Applicants, through their attorneys, requests that the attached application be accorded "special" status for the reason set forth below.

1. That the above-identified patent application and invention involves superconductive materials.

2. Enclosed is a Declaration of applicants in support of the Petition.

No petition fee is due.

The Commissioner is authorized to charge against or credit to Deposit Account No. 05-1060 any and all fees or credits associated with this Petition. A duplicate copy of this paper is enclosed.

Respectfully submitted,
EMRICH & DITHMAR
Attorneys for Applicant
125 South Wacker, Suite 2080
Chicago, IL 60606
Telephone: 312-663-9800

Dated: 7/19/04

M. Levy, Esq., Reg. No. 24,248

1

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUN 16 2005

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 Mailed: September 11, 2007

Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

Applicant: Yates
Appl. No.: 10/648,058
Filing Date: August 26, 2003
Title: SAFETY BELT WEB ADJUSTER
Attorney Docket No.: 31104-6
Pub. No.: US 2005/0044671 A1
Pub. Date: March 3, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 8, 2007, for the above-identified application.

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

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

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

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

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

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/11/2007 KKING1
06/11/2007 INTEFSW 00000839 10648058
01 FC:1505 -300.00 DP

Refund Ref:
09/11/2007 0030044603

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXXX1391

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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
10/648,066	08/25/2003	3742	1554	88265-6975	10	29	4

CONFIRMATION NO. 2945

CORRECTED FILING RECEIPT

OC000000014052886

28765
WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

Date Mailed: 10/13/2004

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

Applicant(s)

Dominick Damiano, Danbury, CT;
Brita Frangsmyr Sheehan, New Milford, CT;
Hua Zhang, New Milford, CT;

Power of Attorney:

Allan A. Fanucci–30256

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/01999 02/21/2002
which claims benefit of 60/271,904 02/27/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2003

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/648,066

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD OF RAPIDLY AND EVENLY HEATING A PACKAGED FOOD PRODUCT

Preliminary Class

219

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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2450 COLORADO AVENUE
STE 400E
SANTA MONICA CA 90404

MAIL

MAY 2 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Wasser, Amos
Application No. 10/648070
Filed: August 26, 2003
For: **TELEPHONE CALL ROUTING**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on April 13, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with Customer Number 33717 have been withdrawn.

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

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

Cc: Amos S. Wasser
NORTHARTGASSE 32
1130 VIENNA
AUSTRIA

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

Amos S. Wasser
Northartgasse 32
1130 Vienna AT AUSTRIA

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Amos S. Wasser :
Application No. 10/648,070 : ON PETITION
Filed: August 26, 2003 :
For: TELEPHONE CALL ROUTING :

This is a decision on correspondence filed November 28, 2005, requesting this Office withdraw the holding of abandonment in the above-identified application. The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.181", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action mailed March 25, 2005. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 26, 2005. A Notice of Abandonment was mailed November 16, 2005.

Applicant files the instant correspondence/petition and requests that this Office withdraw the holding of abandonment in the above-identified application. No support for this request is provided.

Applicant is advised that the application is abandoned because Applicant failed to file a timely and proper reply to the non-final Office action mailed March 25, 2005 (copy enclosed). The papers Applicant has submitted constitute an improper response to the non-final Office action. A petition to revive an abandoned application is required.

Here, Applicant has filed correspondence/petition to withdraw the holding of abandonment, but withdrawal of abandonment is only possible where there is a dispute over whether the application has been properly abandoned. Here, there is no dispute, and Applicant has not alleged, that the abandonment of the application is improper. Instead, Applicant simply requests that this Office withdraw the holding of abandonment.

The request is dismissed.

Applicant is strongly urged to file a petition to revive the application. In order to revive an application, the following requirements must be met:

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), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

This petition lacks all of the items required above. Applicant must file a petition to revive the application. A petition to revive the application requires the following:

Item (**1**): Applicant must file a response that addresses the issues raised in the non-final Office action mailed March 25, 2005.

Item (**2**): Applicant must provide the petition fee. A fee of $750.00 is required.

Item (**3**): Applicant must provide 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 unintentional.

As to item (**4**), since this application was filed after June 8, 1995, item (**4**) is not required.

Applicant is further advised to contact the Office of Independent Inventors, at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, for assistance in prosecuting his patent application.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,070	08/26/2003	Amos S. Wasser	48034-010000	3374

33717 7590 03/25/2005

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

EXAMINER	
D AGOSTA, STEPHEN M	
ART UNIT	**PAPER NUMBER**
2683	

DATE MAILED: 03/25/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/648,070	WASSER, AMOS S.	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

-- 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 _____.

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) *1-38* 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) *1-30 and 35-38* is/are rejected.

7)☒ Claim(s) *31-34* 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 *26 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 *12/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 12-29-03 **for DE-4302820** fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

2. The following documents listed in the IDS were not considered because they were not found in the application: WO-9853629, EP-0556970 and GB-2269512.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as **"means" and "said," should be avoided**. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

1. The abstract is too long and should be shortened.

2. The word "means" is found many times in the abstract, please remove.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 7-13, 18-25 and 35-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Hyllander WO 99/12365 in view of Kimball US 5,953,322 and Martschitsch US Patent 6,223,026 (hereafter Hyllander, Kimball and Martschitsch).

As per **claims 1, 13 and 35**, Hyllander teaches an apparatus for wireless communications comprising:

a) Means for wirelessly communicating with a BTS via a first protocol (figure 2, #8 and #9)

b) Means for dialing a phone number of a remote device/phone (figure 2 shows two phones, #7 and #8) **But is silent on**

c) Means for identifying an access phone number (different from the remote device's phone number)

d) Means for providing access number to BTS via first protocol to indicate a connection is desired with the routing system associated with said access number

e) Means for providing the telephone number (of remote device) to the routing system in accordance with a second protocol for call to remote device

The examiner interprets Hyllander as reading on the applicant's invention based on his teachings of:

i) allowing a mobile phone user to connect, via the Internet, to another telephone user (see figure 2 and page 3, L13-26).

ii) Use of an Internet address (eg. "access phone number") which allows connection across the Internet (eg. routing system) via SMS and/or TCP/IP (eg. second protocol) for a call to the remote device (see figure 2 – connect to GSM system which connects to the Internet routed network). The examiner notes that the IP Address of the remote device can either be manually or automatically transmitted to the wireless network/Internet (page 4, L5-31).

iii) See page 4, L6 to page 7, L3 which states that an Internet address may be associated with the phone number of the mobile subscriber station for a specific period of time (eg. the mobile user's phone will have both a phone number and IP address associated with it so it can connect to the BTS and IP network for data flow). This important point is taught by **Kimball** (figure 2c shows data being transmitted from the phone that contains both the cell phone identifier #138 and an IP header #140 which inherently contains a source IP address for the mobile, eg. an "access number" which is different than the telephone number. Also see C2,L35-64 and C3, L33-50.)

Further with regard to claim 13, the examiner notes that a SIM card inherently contains memory. **Martschitsch** teaches a SIM card with both a processor and memory onboard (figure 1, #20 and #29/#26).

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that means are provided for steps c-e and the SIM card contains memory and a processor, to provide access to a cheap alternate communications system with support data being stored on the SIM card.

As per **claim 2**, Hyllander teaches the ability to connect to a GSM system which, as is known in the art (and also disclosed by the applicant's specification, page 3, L1-23), provides means for storing cellular network information within a SIM (eg. for (c) and (e) of claim 1 included in the SIM in the apparatus).

As per **claims 7 and 20**, Hyllander teaches the use of SMS to transmit support data (abstract).

As per **claims 8-9 and 21-22**, Hyllander teaches several ways in which the GSM network provides the telephone number to the routing system (page 12, L8 to page 18, L22). Hence one skilled in the art would provide it using virtually any of the "channels" available between the two systems (eg. via a signaling channel or data communications channel).

As per **claims 10 and 23**, Hyllander teaches means e) of claim 1 that provides the telephone number to the routing system after the connection has been established (page 12, L8-24).

As per **claims 11 and 18**, Hyllander teaches a GSM network which inherently provides mobile unit registration upon turning on the phone and/or during an attempt to dial/receive a call (eg. step f: means for registering with said base station to accept incoming telephone calls).

As per **claims 12 and 19**, Hyllander teaches the transmittal of a SMS data message(s) between the network elements to allow end-to-end calling via the Internet (abstract) [eg. transmitting a message to the routing system shortly after registering indicating said apparatus is registered).

As per **claims 24 and 36**, Hyllander teaches wireless/GSM telephone communications (which inherently uses mobile unit registration) and also teaches SMS to send support information between the mobile unit and the communications system (and vice versa) [abstract]. Hence, a mobile is registered, SMS can be used to transmit support data and the cellular system can forward calls to the appropriate mobile phone. The examiner interprets Hyllander as reading on the following steps:

a) assigning a contact phone number to each of plural subscribers

b) receiving from a particular subscriber an electronic message that has been formatted per an established protocol, said message identifying a current telephone number for the particular subscriber
c) receiving a telephone call on the contact telephone number for the particular subscriber
d) automatically forwarding the call to the current telephone number by dialing the current telephone number.

based on his teachings of:

i) allowing a mobile phone user to connect, via the Internet, to another telephone user (see figure 2 and page 3, L13-26).

ii) Use of an Internet address (eg. "access phone number") which allows connection across the Internet (eg. routing system) via SMS and/or TCP/IP (eg. second protocol) for a call to the remote device (see figure 2 – connect to GSM system which connects to the Internet routed network). The examiner notes that the IP Address of the remote device can either be manually or automatically transmitted to the wireless network/Internet (page 4, L5-31).

iii) See page 4, L6 to page 7, L3 which states that an Internet address may be associated with the phone number of the mobile subscriber station for a specific period of time (eg. the mobile user's phone will have both a phone number and IP address associated with it so it can connect to the BTS and IP network for data flow). This important point is taught by **Kimball** (figure 2c shows data being transmitted from the phone that contains both the cell phone identifier #138 and an IP header #140 which inherently contains a source IP address for the mobile, eg. an "access number" which is different than the telephone number. Also see C2,L35-64 and C3, L33-50.)

Further with regard to claim 13, the examiner notes that a SIM card inherently contains memory. **Martschitsch** teaches a SIM card with both a processor and memory onboard (figure 1, #20 and #29/#26).

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that means are provided for steps c-e and the SIM card contains memory and a processor, to provide access to a cheap alternate communications system with support data being stored on the SIM card.

As per **claim 25**, Hyllander teaches routing calls through the Internet instead of using long distance wireless/PSTN conveyance (abstract) which reads on the applicant's claim of routing the call to a local device.

Claims 3, 14, 26-30 and 37-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Hyllander/Kimball/Martschitsch in view of Bamburak et al. US Patent 6,418,318 (hereafter Bamburak).

As per **claims 3 and 14**, Hyllander teaches ability to connect to a GSM system which, as is known in the art (and also disclosed by the applicant's specification, page

3, L1-3), and provides means for storing "data" **but is silent on** storing network information about plural different networks within a SIM.

Bamburak teaches selecting a preferable wireless communications service provide in a multi-service provider environment (title) whereby the mobile comprises means to connect to different providers which inherently requires the mobile to store network information so that it knows how to communicate with said multi-service providers (abstract). The examiner also points out that dual-mode and multi-mode phones are known in the art.

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the phone can select a preferable service provider, to provide means for connecting to the area's optimal communications provider during roaming.

As per **claim 26**, Hyllander teaches claim 24 **but is silent on** means for causing the wireless device to download information to update said subscriber information.

Bansal teaches the reduction of wireless calling costs whereby the cellular system (eg. SCP) downloads the best MIN to the wireless device (figure 4, #404-#428, specifically #418-#428).

Bamburak teaches selecting a preferable wireless communications service provide in a multi-service provider environment (title) whereby the mobile comprises means to connect to different providers which inherently requires the mobile to store network information so that it knows how to communicate with said multi-service providers (abstract). The examiner also points out that dual-mode and multi-mode phones are known in the art.

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the wireless device can download data from a plurality of networks and update subscriber information, to provide means to the wireless device to roam and receive update information from multiple networks for reduced cost wireless calling.

As per **claims 27 and 28**, Hyllander teaches claim 26 **but is silent on** updating information includes information regarding how to transmit the electronic message of step b) via a specific one of the wireless networks.

Hyllander teaches a GSM network but does not rule out connection to other cellular networks and dual-mode and multi-mode phone are available which can switch between different systems (as is known in the art). Hence the examiner interprets Hyllander as having the foundation that would provide means for transmitting SMS messages that can contain not only information about Internet calls, but also about other cellular networks (eg. for hand-off or re-registration).

Bansal teaches the reduction of wireless calling costs whereby the cellular system (eg. SCP) downloads the best MIN to the wireless device (figure 4, #404-#428, specifically #418-#428). Bansal also teaches network profiles (C1, L39-43) and the phone can register with a new cellular system after the MIN changes (C1, L51-54). Since dual-mode and multi-mode phones are known in the art, one would expect that

the MIN data message would be modified to contain information about other cellular networks' access information as well. [Note: data can be stored onboard the mobile unit in memory or on a SIM card].

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the update information includes how to transmit the electronic message via a specific wireless network, to provide means for the mobile unit to be able to connect to a multitude of cellular and/or data communication systems (eg. TDMA, FDMA, CDMA, GSM and/or Internet, PSTN, Private WAN, etc.).

As per **claim 29**, Hyllander teaches wireless telephone connectivity to the Internet and the ability to conduct shopping/banking operations (page 1, L10-24) among other things (eg. download electronic cash).

As per **claim 30**, Hyllander teaches wireless telephone connectivity to the Internet and the ability to connect to the Internet for entertainments purposes (page 1, L10-24) among other things (eg. download an audio file/music).

As per **claim 37**, Hyllander teaches wireless communications comprising:

a) means for storing login information (phone inherently has memory and dual-mode phones are known in the art).

c) means for automatically in response to b), logging into the telephone communications network selected in step b) so as to allow said apparatus to receive and initiate telephone calls (mobile unit registration is inherent to all cell networks)

d) means for automatically in response to the selecting by said means b), transmitting a message via the telephone network selected in step b) to an entity that is not a part of the telephone network selected in step b) wherein the message sent in setp d) identifies a phone number at which said apparatus is reachable while logged into the telephone network selected in b) and the message is sent via a pre-established protocol. [Hyllander teaches transmission of an SMS message – abstract].

but is silent on

a) plural networks.

b) means for selecting one of the plural networks (dual-mode phones inherently select the optimal phone network, and hand-offs perform a similar function within one network)

Hyllander teaches a GSM network but does not rule out connection to other cellular networks and dual-mode and multi-mode phone are available which can switch between different systems (as is known in the art). Hence the examiner interprets Hyllander as having the foundation that would provide means for transmitting SMS messages that can contain not only information about Internet calls, but also about other cellular networks (eg. for hand-off or re-registration).

Bansal teaches the reduction of wireless calling costs whereby the cellular system (eg. SCP) downloads the best MIN to the wireless device (figure 4, #404-#428, specifically #418-#428). Bansal also teaches network profiles (C1, L39-43) and the phone can register with a new cellular system after the MIN changes (C1, L51-54). Since dual-mode and multi-mode phones are known in the art, one would expect that

the MIN data message would be modified to contain information about other cellular networks' access information as well. [Note: data can be stored onboard the mobile unit in memory or on a SIM card].

Bamburak teaches selecting a preferable wireless communications service provide in a multi-service provider environment (title) whereby the mobile comprises means to connect to different providers which inherently requires the mobile to store network information so that it knows how to communicate with said multi-service providers (abstract). The examiner also points out that dual-mode and multi-mode phones are known in the art.

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the wireless device can connect to a plurality of networks, so that an optimal, least cost network can be selected as the user roams.

As per **claim 38**, Hyllander teaches claim 37 **but is silent on** further comprising means for allowing the user to cause steps b-d to be repeated with a different one of the plural communications networks being selected at each repetition of step b.

Bansal teaches the reduction of wireless calling costs whereby the cellular system (eg. SCP) downloads the best MIN to the wireless device (figure 4, #404-#428, specifically #418-#428). Bansal also teaches network profiles (C1, L39-43) and the phone can register with a new cellular system after the MIN changes (C1, L51-54).

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the mobile phone can switch manually/automatically between wireless communication systems, to provide means to the user to select, at will, the system they wish to use.

Claims 4-6 and 15-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Hyllander/Kimball/Martschitsch in view of Bansal US 6,526,272 (hereafter Bansal).

As per **claims 4, 15 and 17**, Hyllander teaches means (c) of claim 1/14 **but is silent on** identifies the access telephone number based on at least one of a current telephone number for said apparatus and a current location of said apparatus (eg. for claim 15, identify location and register with one of the different mobile systems).

Bansal teaches reducing wireless calling costs (title) whereby the MIN and location of the phone are identified (figure 4, steps 404-428, specifically #412).

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the access phone number is based on location of the user, to provide the closest access point to the user which reduces costs.

As per **claim 5**, Hyllander teaches claim 1 **but is silent on** means for:

f) analyzing the telephone number

g) means for activating said means d) and e) only if the phone number satisfies a predetermined condition.

Hyllander does teach the advantage of connecting to a remote user via the Internet instead of costly long distance lines (page 2, L3-6) but does not specifically disclose analyzing the phone number and any predetermined condition, although one skilled in the art would provide that functionality.

Bansal teaches means for analyzing where the user is (eg. which phone number is to be called versus which MIN the mobile should use) and a predetermined condition(s) (eg. least cost) [abstract].

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the phone number is analyzed and activation is based on a predetermined condition, to determine the user's location and a cheap(er) access system.

As per **claim 6**, Hyllander teaches claim 5 **but is silent on** wherein the predetermined condition includes a criterion based on amount of toll charges for placing a call to the telephone number directly via the base station.

Hyllander does teach the advantage of connecting to a remote user via the Internet instead of costly long distance lines (page 2, L3-6) but does not specifically disclose analyzing the phone number and any predetermined condition, although one skilled in the art would provide that functionality.

Bansal teaches means for analyzing for reducing calling costs/lowest costs [abstract]. One skilled in the art would be able to calculate the cost of using the cellular network versus Hyllander's use of the Internet to place the call.

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that criteria is based on amount of toll charges directly via the BTS, to provide capability of reducing wireless costs via an alternate communication system.

As per **claim 16**, Hyllander teaches claim 14 **but is silent on** means for causing the wireless device to download information to update said subscriber information.

Bansal teaches the reduction of wireless calling costs whereby the cellular system (eg. SCP) downloads the best MIN to the wireless device (figure 4, #404-#428, specifically #418-#428).

It would have been obvious to one skilled in the art at the time of the invention to modify Hyllander, such that the wireless device can download data and update subscriber information, to provide means to the wireless device to roam and receive update information for reduced cost wireless calling.

Allowable Subject Matter

Claims 31-34 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

For claim 31, Hyllander does not teach maintaining a database of geographic information that includes positions of at least some of the plural subscribers and providing said geographic information upon request (for use with a phone having multiple phone numbers).

For claim 32, Hyllander does not teach maintaining a subscriber database of phone numbers, connection statuses and current telephone numbers for said plural subscribers (for use with a phone having multiple phone numbers).

Claims 33 and 34 depend upon claims 32 and 33.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta
PRIMARY EXAMINER
3-16-05

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COMMISSIONER FOR PATENTS
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12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

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MAR 1 4 2006

OFFICE OF PETITIONS

Applicant: Ai et al.
Appl. No.: 10/648,079
Filing Date: August 26, 2003
Title: METHOD AND APPARATUS FOR POWER FLOW MANAGEMENT IN ELECTRO-MECHANICAL TRANSMISSIONS
Attorney Docket No.: TIMK 8736 US
Pub. No.: US 2005/0049100 A1
Pub. Date: March 3, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on April 13, 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 is republished.

It would greatly benefit the Office if applicant did not provide copies of the application papers, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b).. A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The provisional application cited by the Examiner as a reference and scanned on October 6, 2004, which was improperly indexed as specification and drawings and published has been correctly indexed as a reference.

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Jennifer Meredith
315 Park Avenue South
Floor 19
New York, NY 10010

In re Application of	:	
Fred J. Abrahams	:	
Application No. 10/648,102	:	DECISION ON PETITION
Filed: August 25, 2003	:	TO MAKE SPECIAL
For: DISPOSABLE PROMOTIONAL ITEMS WITH BUILT IN DTMF TONES	:	

This is a decision on the petition to make special filed August 25, 2003 under 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 does not include a statement and/or evidence that Mr. Fred J. Abrahams is 65 years of age or older. If applicant is relying on a statement to show proof of age, the statement must be from the applicant and not the practitioner.

Accordingly, the petition is **DENIED**.

Petitioner is given **TWO MONTHS** from the date of the decision to supplement the petition with evidence as appropriate.

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

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Jennifer Meredith
315 Park Avenue South
Floor 19
New York, NY 10010

MAIL

NOV 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Fred J. Abrahams :
Application No. 10/648,102 : DECISION ON PETITION
Filed: August 25, 2003 : TO MAKE SPECIAL
For: DISPOSABLE PROMOTIONAL ITEMS :
WITH BUILT IN DTMF TONES :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed September 29, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Mr. Fred J. Abrahams drivers license evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

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

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of :
Grove, et al. : DECISION ON PETITION
Application No. 10/648,125 :
Filed: August 25, 2003 :
Docket No.: 2043.102US1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 14, 2006.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed January 9, 2006. Notice of Abandonment was mailed July 18, 2006.

Petitioners assert that a response to the final Office action and a petition for extension of time were timely submitted on July 10, 2006.

The original response was received July 12, 2006 and is contained in the application file. The response bears a certificate of mailing date of July 10, 2006 in accordance with 37 CFR 1.8 and is thus deemed to have been timely submitted.

In view of the evidence thereof, 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 2100 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Myers Bigel Sibley & Sajovec, P.A.
PO Box 37428
Raleigh NC 27627

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JAN 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Ideker :
Application No. 10/648,162 :
Filed: August 26, 2003 :
Attorney Docket No. 5656-33 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10, filed January 2, 2004, requesting that the above-identified application be accorded a filing date of August 26, 2003, rather than the presently accorded filing date of August 27, 2003.

Petitioner alleges that the application was deposited in Express Mail service on August 26, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV318420749US. The "date-in" on the Express Mail label is blank; however, the label contains a United States Postal Service (USPS) stamp of August 26, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

The Office of Initial Patent Examination is directed to correct the filing date to August 26, 2003, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mr. Brian D. Krell
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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APR 2 6 2004

OFFICE OF PETITIONS

In re Application of
G. B. Bode
Filed: August 26, 2003
Application No. 10/648, 171
Attorney Docket No. SMEC121518
For: Swing Clamp

: LETTER REGARDING
: NO PUBLICATION FEE DUE

This letter is in response to the request to withdraw the application from publication and "rescind publication fee due" filed on March 26, 2004 and the telephone conversation with Mr. Brian D. Krell (Reg. No. 51,899) on April 13, 2004. Mr. Krell told Ms. Chang that applicant no longer wish to withdraw the application from publication.

The above-identified application has been published due to the Office's processing error. The application is not subject to publication under 35 U.S.C. § 122(b). Therefore, **no publication fee is required**. If a Notice of Allowance that requires the publication fee (or a Notice of Publication Fee Due) is received by the applicant, applicant may submit a reply to the Notice stating that no publication fee is due because the application has been published due to the Office's error. The reply should include a copy of this Notice Regarding No Publication Fee Due.

Questions concerning this correspondence should be directed to Joni Chang, Legal Advisor at the Office of Patent Legal Administration at (703) 308-3858.

Joni Y. Chang

Joni Y. Chang
Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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

Date : February 1, 2007

Patent No. :7,086,789
Inventor(s) :Tomita, et al.
Issued :August 26, 2003
Title :OPTICAL ELEMENT MODULE
Docket No. :1326-017

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

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

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Hedman & Costingan, P.C.
1185 Avenue of the Americas
New York, NY 10036

CBN/arg

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JOHN VELDHUIS-KROEZE
WESTMAN CHAMPLIN & KELLY
900 SECOND AVENUE SOUTH, SUITE 1600
MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Application of	:	
Kabir Siddiqui	:	
Application No. 10/648,182	:	DECISION GRANTING PETITION
Filed: August 26, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M61.12-0513	:	

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 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 2833 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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GARDERE / JHTL
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS, TX 75201

Mail Date: 04/21/2010

Applicant	: Amlan Datta	: DECISION ON REQUEST FOR
Patent Number	: 7666505	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/648,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 13 2005

TECHNOLOGY CENTER 3600

GOWLING, LAFLEUR HENDERSON LLP
ONE MAIN STREET WEST
HAMILTON ON L8P 4Z5 CA CANADA

In re Application of : **DECISION ON PETITION**
Fred Bagshaw : **TO WITHDRAW THE**
Application No. 10/648,213 : **HOLDING OF ABANDONMENT**
Filed: August 27, 2003 :
For: LADDER WITH RUNG STABILISING DEVICE

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on June 03, 2005.

A review of the record shows a Notice of Abandonment was mailed on April 22, 2005 for failure to respond to the Office action mailed September 02, 2004, which set a three-month extendable period for reply. Note that the Notice of Abandonment inadvertently indicated the Office action mail date as December 02, 2004.

The petition is **GRANTED** in view of the originally sent response, timely received December 01, 2004. The original response received December 01, 2004 was not promptly matched with the file as the cover page of the response incorrectly identifies the application as serial number 10/846,213 rather than 10/648,213.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and to the forward the application to the examiner for prompt action.

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

KJD/rjc 08/25/05

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United States Patent and Trademark Office
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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Chun Yong Chen :
Application No. 10/648,225 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 3079/187 :

This is a decision in response to the petition, filed November 13, 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 April 17, 2006. A Notice of Abandonment was mailed on October 31, 2006. In response, on November 13, 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 $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1723 for consideration of the amendment filed November 13, 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Kimura et al.
Application No. 10/648,252
Filed: August 27, 2003
For: CONTROL OF STORAGE AND READ OF DATA ON MASS STORAGE DEVICE

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

This is a response to the petition filed December 22, 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 **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

3/17/05

JC

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

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OFFICE OF PETITIONS

In re Application of	:	
Ross et al.	:	
Application No. 10/648,266	:	ON PETITION
Filed: August 27, 2003	:	
Attorney Docket No. 740618-57	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 21, 2008. 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 May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Masato Jimbo :
Application No. 10/648,269 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No.: 04208.0187 :
:

This is a decision on the petition, filed October 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 April 21, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1733 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of :
Kenichi Nakatate, et al. :
Application No.: 10/648,275 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No.: Q76815 :

This is a decision on the petition, filed December 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2874 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: NAKAMURA et. Al.	DECISION ON
Application No. 10/648,291	PETITION TO MAKE
Filed: AUGUST 27, 2003	SPECIAL (ACCELERATED
For: STORAGE SYSTEM	EXAMINATION UNDER
	M.P.E.P 708.02 (VIII))

This is a decision filed December 29, 2004 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION.

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;

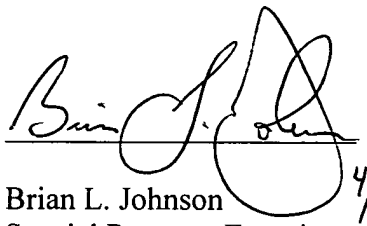
(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.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



4/1/05

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

JC

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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA
CANADA

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OFFICE OF PETITIONS

In re Application of Komarechka :
Application No. 10/648,301 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. BK-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 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 27, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 28, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Gordon Thomson signed the petition. Thomson was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Thomson was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Thomson that the entire delay was unintentional 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 a portion of the delay 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.

Technology Center Art Unit 2628 will be informed of the instant decision and the examiner will consider the merits of the amendment filed September 29, 2006, 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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P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA
CANADA

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In re Application of Komarechka :
Application No. 10/648,301 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. BK-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2007, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 23, 2007, 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 July 24, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1) above, petitioner has not submitted a proper reply to the final Office action mailed April 23, 2007. A proper reply to a final rejection consists only of:

(1) an amendment which *prima facie* places the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

As of this date, none of the above acceptable forms of reply have been filed. On October 28, 2007, a petition under 37 CFR 1.137(b) and a response were filed. The proposed amendment was sent to the examiner to determine whether it placed the application in condition for

allowance. The examiner determined that the proposed amendment raised new issues requiring further search or consideration. Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action mailed on April 23, 2007. As a courtesy, a copy of an unofficial advisory action is attached.

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)."

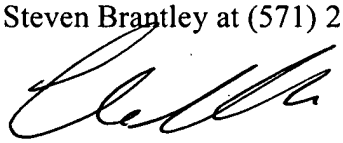
Any request for reconsideration may be filed via EFS. If not filed by EFS, further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Copy of unofficial advisory action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/648,301	**Applicant(s)** KOMARECHKA, ROBERT G.	
	Examiner DANIEL WASHBURN	**Art Unit** 2628	

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

THE REPLY FILED 28 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *15-20*.
   Claim(s) rejected: *6-14*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: In the final rejection claims 15-20 were objected to as being dependent upon rejected base claim 7 and dependent claims 8-14. It was noted that the claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims (e.g., claims 8-14). The applicant has amended the application such that dependent claim 17 is now dependent from claim 6, where previously presented claim 6 included the claim limitations of claim 16 and the additional limitation, 'wherein the pixilated presentation discloses interpretable data based on said color hues' (third line from the bottom). The applicant has amended claim 6 to describe step (e) as 'correcting the field measurements for external conditions in order to obtain remnant values for each field measurement Xremnant, Yremnant, and Zremnant,' which is considered similar, but not identical, in scope to previously objected to claim 15. Finally, the applicant has amended claim 6 to describe step (f) as 'converting said Cartesian remnant values to mathematical spherical coordinates,' which is considered similar, but not identical, in scope to the limitations found in claim 16 and the last two lines of claim 6.

Thus, the scope of claims 17-20 has been changed because claims 17-20 no longer indirectly or directly depend from the subject matter of claims 7-14, as the subject matter of claims 8-14 has been cancelled and claims 17-20 now depend from independent claim 6 instead of independent claim 7 (the two independent claims are considered to have similar, but not identical, subject matter). Further, the scope of claim 6 has been changed, as the amendments to claim 6 are considered similar, but not identical, in scope to the subject matter of cancelled claims 15 and 16.

Therefore, the proposed amendments require further search and/or consideration before patentability can be determined.

Continuation of 11. does NOT place the application in condition for allowance because: The amendments alter the scope of the claims, which means further search and/or consideration is required before patentability can be determined.

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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA
CANADA

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AUG 0 5 2008

In re Application of Komarechka :
Application No. 10/648,301 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. BK-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 23, 2007, 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 July 24, 2007.

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.

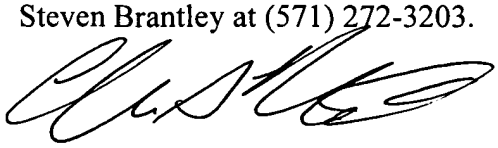
A prior petition was filed on October 28, 2007. The petition satisfied all the requirements above except for requirement (1). A decision dismissing the petition was mailed April 24, 2008.

The instant petition includes a proper reply to the final Office action. Specifically, the petition is accompanied by a Request for Continued Examination and submission.

Petitioner has now met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2628 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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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA
CANADA

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AUG 0 8 2008

In re Application of Komarechka :
Application No. 10/648,301 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. BK-001 :

This is a *corrected* decision on the petition under 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is ***granted***.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 23, 2007, 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 July 24, 2007.

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.

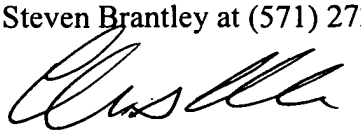
A prior petition was filed on October 28, 2007. The petition satisfied all the requirements above except for requirement (1). A decision dismissing the petition was mailed April 24, 2008.

The instant petition includes a proper reply to the final Office action. Specifically, the petition is accompanied by a Request for Continued Examination and submission.

Petitioner has now met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2628 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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Tahara et al. :
Application No. 10/648,341 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 07553.0024-01 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on April 12, 2005, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filed nonprovisional Application 09/893,628 filed June 29, 2001.

The petition is **Dismissed As Moot** .

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference that includes the relationship to the prior- filed application.

The instant pending nonprovisional application was filed on August 27, 2003 and was pending at the time of the filing of the instant petition. While a reference pursuant to 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the application to the prior-filed application was not included in the ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not

included in the first sentence of the specification or in the ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim of priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78 (a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim of priority under 37 CFR 1.78 (a)(3).

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being forwarded to the examiner of Technology Center Art Unit 2857 for further processing.

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

Frances Hicks
Petition Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/24/06

TO SPE OF : ART UNIT **2831**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/648351 BV 6972371

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

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

Thank You For Your Assistance

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

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

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

Comments:

Approved all changes HVN

Diego Gutierrez
Supervisory Patent Examiner
Tec SPE Gov Center 2800

2831
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081021

DATE : October 21, 2008

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,373,199

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:

Entry of the Request for Certificate of Correction filed 18 June 2008 is DENIED. The Request to Correct Inventorship under 37 CFR 1.48(a) filed 23 April 2008 is being treated as a Request to Correct Inventorship under 37 CFR 1.324 since the paper was addressed after the patent issued. The request is deficient in that it does not include a statement from the current named inventors either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change as required by 37 CFR 1.324(b)(2).

/CHARLES A MARMOR II/
Supervisory Patent Examiner.Art Unit 3735

DO NOT ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,373,199 B2 Page 1 of 1

APPLICATION NO. : 10/648,354

ISSUE DATE : May 13, 2008

INVENTOR(S) : Sackellares *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,

(75) Inventors:, please insert the following:

--Panos M. Pardalos, Gainesville, FL (US)

Wanpracha A. Chaovalitwongse, Hillsborough, NJ (US)--.

MAILING ADDRESS OF SENDER

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091023

DATE : October 23, 2009

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,373,199

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: /Charles A. Marmor, II/ **Art Unit** 3735

OK TO ENTER: /C.M./

Alston & Bird LLP

Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
(704) 444-1000
Fax (704) 444-1111

May 18, 2009

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: United States Patent for *Optimization of Multi-Dimensional Time Series Processing for Seizure Warning and Prediction*
Application No. 10/648,354; Filed August 27, 2003
Patent No. 7,373,199 B2; Issued May 13, 2008
Our File 049648/341578

Sir:

It is respectfully requested that a Certificate of Correction be issued for the above-identified patent, in accordance with 37 C.F.R. §1.324.

As supporting evidence to add the two inventors listed on the Certificate of Correction, Applicant submits the following:

- Statements from (1) Wanpracha A. Chaovalitwongse and (2) Panos M. Pardalos that the inventorship error occurred without any deceptive intention on their part.
- Statements from (1) Linda Dance, (2) James Chris Sackellares, (3) Deng-Shan Shiau, and (4) Leonidas D. Iasemidis agreeing to the change of inventorship.
- Statements from each assignee agreeing to the change of inventorship in the patent.

The mistakes appearing in the patent are set forth on the Certificate of Correction e-filed herewith.

Respectfully submitted,

/Dane A. Baltich/

Dane Alexander Baltich
Registration No. 55,274

DAB/mt
Enclosures
LEGAL02/31012379v1

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,373,199 B2

APPLICATION NO. : 10/648,354

ISSUE DATE : May 13, 2008

INVENTOR(S) : Sackellares *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,

(75) Inventors:, please insert the following:

--Panos M. Pardalos, Gainesville, FL (US)

Wanpracha A. Chaovalitwongse, Hillsborough, NJ (US)--.

MAILING ADDRESS OF SENDER

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000

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1500 MONTREAL ROAD
BLDG M-58, ROOM EG12
OTTAWA, ONTARIO K1A 0R6 CA CANADA

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Henryk Borowy-Borowski et al.
Application No. 10/648,371
Filed: August 27, 2003
Attorney Docket No. 10975-1C

: DECISION GRANTING PETITION

This is a decision on the petition filed February 24, 2004, requesting that the above-identified application be accorded a filing date of August 27, 2003, with a complete specification and oath or declaration as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on August 27, 2003. However, on January 20, 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 a complete specification in compliance with 35 U.S.C. § 112 and an oath or declaration in compliance with 37 CFR 1.63 were missing.

In response, on February 24, 2004, the present petition was filed, accompanied by, inter alia, 61 pages of specification and a 3 page oath or declaration. Petitioners assert that the above-identified application is a continuation of Application No. 09/773, 592 filed February 2, 2001.

A search of the official file reveals that on August 27, 2003, a "Utility Patent Application Transmittal" letter indicated that the application was a continuation of application No. 09/773,592, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on August 27, 2003, stating that the entire disclosure of Application No. 09/773,592 was incorporated by reference in the present application, it appears that the specification and oath or declaration was present in the Office on August 27, 2003, albeit in the file of another application, *i.e.,* Application No. 09/773,592. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the 61 pages of specification and 3 page oath or declaration supplied on February 24, 2004, as a part of the original disclosure.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

The primary examiner is expected to compare the specification and oath or declaration supplied on February 24, 2004, to the disclosure of prior application No. 09/773,592 in

order to verify that the specification and the oath or declaration are in fact, a part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to August 27, 2003, using the application papers filed August 27, 2003 and that while the 61 pages of specification and 3 page oath or declaration supplied on February 24, 2004 were not present on filing, they were a part of the original disclosure.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. None

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JAN 30 2007

OFFICE OF PETITIONS

NATIONAL RESEARCH COUNCIL OF CANADA
1200 MONTREAL ROAD
BLDG M-58, ROOM EG12
OTTAWA, ONTARIO K1A 0R6 CA CANADA

In re Application of :
Henryk Borowy-Borowski et al. :
Application No. 10/648,371 : DECISION ON PETITION
Filed: August 27, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 10975-1C :
Title: WATER-SOLUBLE :
COMPOSITIONS OF BIOACTIVE :
LIPOPHILIC COMPOUNDS :

This is a decision on the petition filed on November 6, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 6, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on November 28, 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

1 See MPEP §710.02(e).

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[2].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, 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 Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the communication of October 6, 2005, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. 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 See MPEP 711.03(c).
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 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

MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO CA 94105

COPY MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Borowy-Borowski et al.	:	
Application No. 10/648,371	:	DECISION GRANTING PETITION
Filed: August 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 061810-5019-US03	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional 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 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), 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 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 nonprovisional application, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 1611 for appropriate action on the amendment filed April 28, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/648,371	08/27/2003	1611	1128	061810-5019-US03	27	6

CONFIRMATION NO. 3708

CORRECTED FILING RECEIPT

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105

Date Mailed: 07/01/2009

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)

Henryk Borowy-Borowski, Ottawa, CANADA;
Marianna Sikorska-Walker, Navan, CANADA;
P. Roy Walker, Navan, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 43850

Domestic Priority data as claimed by applicant

This application is a CON of 09/773,592 02/02/2001 PAT 6,632,443
which is a CIP of 09/511,239 02/23/2000 PAT 6,191,172
which is a DIV of 09/285,244 04/02/1999 PAT 6,045,826

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/648,371**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

WATER-SOLUBLE COMPOSITIONS OF BIOACTIVE LIPOPHILIC COMPOUNDS

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COLE LLP
101 JEFFERSON DRIVE
MENLO PARK CA 94025

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Adams et al. :
Application No. 10/648,407 : DECISION ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 58689-8074.US02 :

This is a decision on the petition under 37 CFR §1.137(b), filed November 7, 2005 to revive the above-identified application.

This petition is hereby **Dismissed**.

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)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice Regarding Drawings which was mailed July 19, 2005 and set a 1 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on August 20, 2005. This decision precedes the mailing of a Notice of Abandonment.

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 lacks items (1). Although corrected drawings were submitted with the petition, the Draftsperson has objected to the drawings. Accordingly, corrected drawings are required. Please refer to the Notice of Draftsperson's Patent Drawing Review enclosed.

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

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

enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 11 2006
OFFICE OF PETITIONS

PERKINS COLE LLP
101 JEFFERSON DRIVE
MENLO PARK CA 94025

In re Application of :
Adams et al. :
Application No. 10/648,407 : DECISION ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 58689-8074.US02 :

This is a decision on the petition under 37 CFR §1.137(b), filed March 7, 2005 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice Regarding Drawings which was mailed July 19, 2005 and set a 1 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on August 20, 2005. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(b) was dismissed on January 27, 2006.

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

The Office acknowledges receipt of corrected drawings submitted with the instant petition.

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

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

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven Anthony Smith
30075 NW Capehorn Rd
Buxton, OR 97109

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of Smith :
Application No. 10/648,409 :
Filing Date: August 25, 2003 :
For: Powerflex Deluxe Walking Sticks :

Decision on Petition

This is a decision on the petition filed April 11, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed November 18, 2004.

A reply was filed February 17, 2005.

A Notice of Non-Compliant Amendment was mailed July 1, 2005. The Notice stated problems existed with both amendments to the specification and amendments to the claims. Petitioner did not seek to amend the abstract and the Notice did not state any problem existed with the abstract.

The July 1, 2005 Notice stated, "For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http:www.uspto.gov/web...." A copy of the two page form found at the website is attached.

The July 1, 2005 Notice set an extendable period for reply of 1 month.

Petitioner filed a reply July 28, 2005. The reply included a new handwritten abstract page. The reply failed to correct the problems noted on the Notice of Non-Compliant Amendment.

A Notice entitled, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" was mailed November 4, 2005. The Notice did not set a new time period for reply. Therefore, the time period to reply continued to be the extendable one-month time period set forth in the July 1, 2005.

Petitioner states a new amendment was filed November 28, 2005. Petitioner does not allege payment for an extension of time was filed with the new amendment.

The papers filed November 28, 2005, were not matched with the file.

A Notice of Abandonment was mailed March 3, 2006. The Notice incorrectly stated the application was abandoned as a result of petitioner's failure to file a proper reply to an Office action mailed July *28*, 2005. However, the application is abandoned because applicant did not file a proper and timely reply to the Notice of Non-Compliant Amendment mailed July *1*, 2005.

The instant petition was filed April 10, 2006.

Discussion:

Petitioner, not the Office, was responsible for ensuring a proper and timely reply was filed in response to the Notice of Non-Compliant Amendment mailed July 1, 2005. As a courtesy, the Office may advise the applicant when a reply, such as the reply filed July 28, 2005, is deficient. However, the Office was not under any obligation to advise applicant the July 28, 2005 reply was improper on or before a set date.

The Notice mailed November 4, 2005, did not set a new time period for petitioner to reply. Therefore, the application is abandoned unless petitioner demonstrates:

(1) a proper reply was filed in reply to the July 1, 2005 Notice, *and*
(2) the proper reply was timely filed.

The July 1, 2005 Notice set a one month time period for reply unless extensions of time were purchased. A proper reply was not filed within the one month period of time. Petitioner's belief the $795 fee required to obtain a four month extension of time is excessively high does not alter the fact the fee required to obtain a four month extension of time is $795. Petitioner did not submit $795 or any other fee for an extension of time. Therefore, any replies filed after August 1, 2005, even if in the proper format, were untimely.

When an application is abandoned, one may only revive the application under 37 CFR 1.137. Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

As a courtesy, the Office will address petitioner's concern over "conflicting" information related to signature requirements. Ms. Toi Johnson probably informed petitioner each paper must be signed. Such a statement can be misconstrued to mean each page. However, the Office defines "paper" differently. An example is the best way to illustrate the difference between paper and page. Suppose X files a 7 page amendment, a 1 page request for extension of time, and a 1 page transmittal letter. X has filed a total of 9 pages. However, X has filed 3 papers - an amendment, a request for an extension of time, and a transmittal letter. Each of the 3 papers should be signed. However, X would not need to sign all 9 pages.

A review of the evidence filed with the petition indicates petitioner may be unfamiliar with the provisions of 37 CFR 1.8. A discussion of 37 CFR 1.8 is attached.

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 NOT permitted.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Rule 137(b) revival form
Discussion of Rule 8 practice
2 pages explaining amendment practice from a portion of the PTO website
7 pages providing an example of amendment practice

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Certificate of Mailing Practice:

Using "Certificate of Mailing" procedures, one may ensure that certain papers filed with the Office are considered timely even if the Office does not physically receive the papers until after the end of the period of time for reply.

Example: A reply is due by May 1, 2006.

A reply is mailed with the United States Postal Service on May 1, 2006.

The reply is delayed in the mail and is not delivered to the USPTO until May 5, 2006.

If the reply was properly mailed using "Certificate of Mailing" procedures, the reply will be considered timely even though the reply was received on May 5, 2006.

"Certificate of Mailing" procedures can allow one to prove a paper was timely mailed when USPTO records fail to indicate the paper was received.

The first step in using "Certificate of Mailing" is placing the proper language on a portion of each paper being submitted or placing the certification language on a separate sheet. If the certification is presented on a separate sheet, that sheet must:

(1) be signed,
(2) be securely attached to the papers filed, **AND**
(3) fully and completely identify each paper being attached, e.g., reply to final rejection, Notice of Appeal, etc.

A suggested format for the Certificate of Mailing can be found below.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage on (put the DATE) as first class mail or Express Mail in an envelope addressed to:

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

Typed or printed name of person signing this certificate

_____

Signature: _____

One may also use "Certificate of Mailing" procedures to submit a paper by facsimile transmission. If use for facsimile transmission, the certification is called a "Certificate of Transmission." A suggested format for the Certificate of Mailing can be found below.

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on (put the date).

Typed or printed name of person signing this certificate

_____

Signature: _____

The second step necessary to properly use "Certificate of Mailing" procedures requires to the individual who will be mailing or sending the paper(s) by facsimile transmission to complete the information in the Certificate of Mailing or Transmission *on the date it will be mailed or transmitted.*

The third step is to make a copy of the paper(s) and retain the copy of the papers. The copy should be made *after* the Certificate has been properly completed (dated, signed, etc.).

The fourth step, when one wishes to mail the paper, is mailing the paper by first class using the United States Postal Service on the date listed in the Certificate. The term "first class mail" also includes papers mailed with the USPS by Express Mail or Priority Mail.

The fourth step, when one wishes to transmit the paper, is sending the transmission on the date listed in the Certificate, obtaining a sheet from the sending unit verifying the transmission was successful, and retaining the sheet.

It should be noted that the benefits of a Certificate of Mailing/Transmission procedures do not apply to all papers.[1] In addition to the exceptions listed in the footnote, one may not use a Certificate of *Transmission* for some drawing submissions. However, since sending a paper by facsimile transmissions degrades the quality of the image, a person in the United States may wish to mail drawings even in circumstances where the drawings could be submitted by facsimile transmission.

The following page is a copy of a suggested Transmittal Form prepared by the Office. Please note the Certificate of Mailing/Transmission located on the bottom of the form.

---

[1] Certificate of Mailing or Transmission practice does not apply to the submission of original application papers, Continued Prosecution Applications, some papers related to interference practice, the filing of an international application, the filing of papers in an international application, and the filing of copy of international application and fee required to enter national stage.

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

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

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ 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
- ☐ Other Enclosure(s) (please Identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name			
Date		Reg. No.	

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			
Typed or printed name		Date	

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.

REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 *Fed. Reg.* 38611 (June 30, 2003), posted on the Office's website at: http://www.uspto.gov/web/patents/ifw/ with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.
Note: The amendment practice for **reissues** and **reexamination proceedings**, except for drawings, has not changed.

REVISED AMENDMENT PRACTICE

I. Begin each section of an amendment document on a separate sheet:
Each section of an amendment document (*e.g.*, Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

II. Two versions of amended part(s) no longer required:
37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

A) Amendments to the claims:
Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, **must include a complete listing** of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and **the text of each pending claim** (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

(1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), ***(previously presented) and (not entered).*** The text of all pending claims, ***including withdrawn claims,*** must be submitted each time any claim is amended. Canceled ***and not entered*** claims must be indicated by only the claim number and status, without presenting the text of the claims.

(2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for ***deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change*** *(e.g., ~~number 4 as~~ number 14 as).* An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.

(3) The text of pending claims not being currently amended, ***including withdrawn claims,*** must be presented in the claim listing in clean version, *i.e.*, without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

(4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.
(5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.
(6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (*e.g.*, Claims 1 – 5 (canceled)).

Example of listing of claims (use of the word "claim" before the claim number is optional):

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

B) Amendments to the specification:
Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for ***deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change*** *(e.g., ~~number 4 as~~ number 14 as)*

C) Amendments to drawing figures:
Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, ***and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations.*** Any replacement drawing sheet must ***be identified in the top margin as "Replacement Sheet"*** and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. ***Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment (e.g., as an appendix).*** The figure or figure number of the amended drawing(s) must **not** be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to patentpractice@uspto.gov or by phone at (703) 305-1616.

SAMPLE FORMAT FOR REVISED AMENDMENT PRACTICE (Rev. 6/03)

Appl. No.	:	XX/YYY,YYY	Confirmation No. WXYZ
Applicant	:	James Q. Inventor	
Filed	:	April 19, 2003	
TC/A.U.	:	1744	
Examiner	:	John Doe	
Docket No.	:	12345/JAS/R758	
Customer No.	:	88888	

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

AMENDMENT

Sir:

In response to the Office action of October 16, 2003, please amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this paper.
Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.
Amendments to the Drawings begin on page 4 of this paper and include both an attached replacement sheet and an annotated sheet showing changes.
Remarks/Arguments begin on page 5 of this paper.
An **Appendix** including amended drawing figures is attached following page 5 of this paper.

Amendments to the Specification:

Please replace paragraph [0021] with the following amended paragraph:

[0021] In the construction of the bucket of this invention, various materials have been selected [[and]] which offer a number of diverse properties [[,]] and allow for varied functions of the article. For caustic solutions, the bucket can be made of a durable ~~polymer~~ plastic material. Where an aesthetic appeal is desired, the bucket can be any [[of]] one of many attractive colors. The following ~~listing~~ list of properties serves to define possible uses for the buckets.

Please replace paragraph [0045] with the following amended paragraph:

[0045] Figure 1 displays a bucket of the invention. As can be seen from the drawing, ~~the~~ a handle is attached to the upper lip of the structure and connected at points diametrically opposite each other on the circumference.

Please add the following new paragraph after paragraph [0075]:

[0075.1] An optional feature of the articles of the invention is the addition of a tetrafluoroethylene coating to the bucket to provide protection from any contents which might be caustic. The coating can be provided to the surface during the manufacturing process or can be added in a later step.

Please delete the paragraph beginning at page 2, line 4, which starts with "Under normal circumstances"

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 2. This sheet, which includes Fig. 1-2, replaces the original sheet including Fig. 1-2. In Figure 2, previously omitted element 13 has been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

In the specification, the paragraphs [0021] and [0045] have been amended to correct minor editorial problems. The new paragraph [0075.1] added after paragraph [0075] discusses in general terms the features taken from Example 4.

In amended Figure 2, the previously omitted element numeral 13 has been added.

Claims 6-10 and 12-13 remain in this application. Claims 1-5 and 11 have been canceled. Claims 7 and 8 have been withdrawn.

The examiner has acknowledged that claims 6 and 9-10 are directed to allowable subject matter. Claim 7-8 have been withdrawn as the result of an earlier restriction requirement. Claim 13 adds an additional feature from Example 2 in the specification.

In view of the examiner's earlier restriction requirement, applicant retains the right to present claims 7-8 in a divisional application .....
.....
.....

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

SMITH, JONES & BROWN

By_____
Martin J. Gallagher
Reg. No. 99,999
Tel.: (101) 555-2345

Attachments

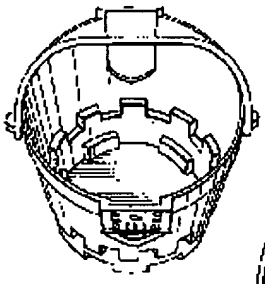

FIG. 1

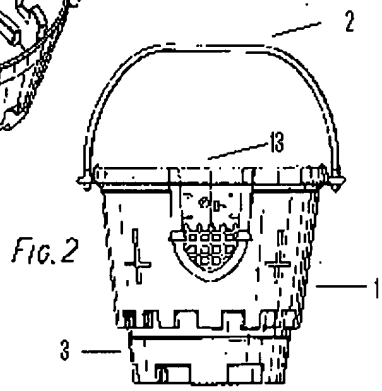

FIG. 2

Annotated Sheet Showing Changes

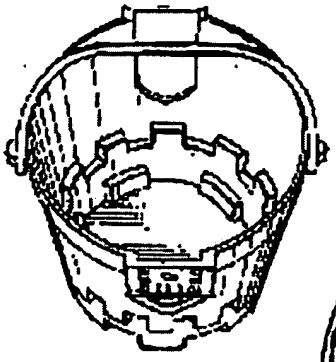

FIG. 1

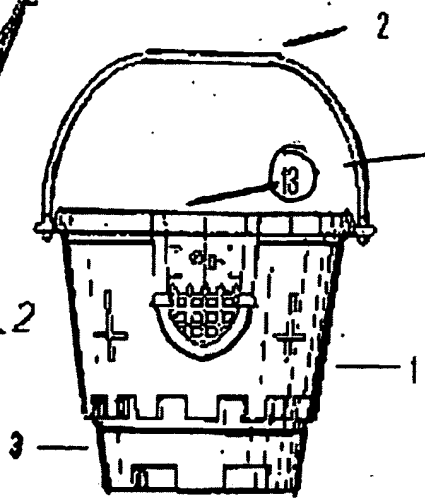

FIG. 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 14 2004

KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND OR 97204

In re Application of	:	
Richard B. Harkness	:	
Serial No.: 10/648,412	:	SUSPENSION OF ACTION
Filed: August 25, 2003	:	
Attorney Docket No.: 2747-66693	:	

This is in reply to the petition under 37 CFR 1.103 to further suspend action on this application for a period of six months, filed January 16, 2004, and supplemental petition for suspension filed May 12, 2004. The delay in acting on this petition is regretted..

The petitions in the above identified application were not timely forwarded for decision. However the effect in the delay is to have afforded applicant a suspension of prosecution as requested. The basis of the request is related to an application that was pending before the Court of Appeals for the Federal Circuit having an identical issue before it for decision. A decision was rendered on August 16, 2004, pursuant to which a request for *en banc* hearing was filed. That request has now been denied. The decision of the Court was to return the application to the Office for further fact finding. In view of this action and essential affirming of the Office position, suspension of prosecution in this application is now not deemed appropriate. Any fact finding required in this application as a result of the Court decision should be made during further prosecution.

In view of the above applicant's petition for suspension is **DENIED**.

The application will be forwarded to the examiner for further action not inconsistent with this decision.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

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DAVID M. LOCKMAN
MAGINOT, MOORE & BECK, LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, STE. 3250
INDIANAPOLIS, IN 46204-5109

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward P. Imes et al.	:	
Application No. 10/648,413	:	DECISION ON PETITION
Filed: August 26, 2003	:	
Attorney Docket No. D/A2510	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 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 November 28, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed August 26, 2005. Accordingly, the date of abandonment of this application is November 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and the publication fee of $300, (2) the petition fee of $1500, 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 Kimberly Inabinet at (571) 272-4618.

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

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

WALT FROLOFF
273D SEARIDGE RD
APTOS, CA 95003

In re Application of	:	
Froloff, Walt	:	
Application No. 10/648,433	:	ON PETITION
Filed: August 25, 2003	:	
Attorney Docket No. Emo2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 24, 2007, to revive the above-identified application. In view of the allegation in the petition of the non-receipt of the Notice of Allowance, the petition will also be considered under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

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

The above-identified application became abandoned for failure to time and properly reply to the final Office action mailed March 8, 2006. Accordingly, the above-identified application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on May 1, 2007.

Petitioner stated that the Notice Requiring Extension of Time Fees (Notice) mailed October 27, 2006 was never received. An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. 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.

2. 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]

In the absence of any irregularity there is a strong presumption that the communications was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communications was not in fact received.

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner also submitted a new Petition for Extension of Time (along with payment of the $60.00 one-month extension of time fee) on November 7, 2006, along with a copy of the Notice. If petitioner failed to receive the Notice, it is unclear how petitioner was able to return a copy of the Notice with the new Petition for Extension of Time.

Further, the response submitted on October 10, 2006 was not timely with or without an extension of time. 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). The maximum statutory period for reply to a final Office action is 6 months, which would have been September 8, 2006. *See 35 U.S.C. 133.* Accordingly, since the $60.00 extension of time fees submitted on October 10, 2006 and November 7, 2006 were subsequent to the maximum extendable period for reply, these fees are unnecessary and will be refunded via treasury check in due course.

However, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). 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); (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 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 2 2 2006

OFFICE OF PETITIONS

SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

In re Application of :
Zhou :
Application No. 10/648,458 : DECISION DISMISSING PETITION
Patent No. 6,887,941 :
Filed: August 26, 2003 :
Attorney Docket KCC 4925.8

This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" May 3, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 10 days to a determination of (0) days. The Office is treating such letter as a letter of good faith and candor.

Applicant's petition is **DISMISSED**.

Applicant argues that the Office erred in not assessing a delay for the submission of an RCE on September 1, 2004. Applicant proffers that the submission of an RCE after a notice of allowance is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10).

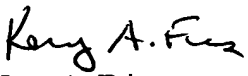
Applicant's argument have been considered but are not deemed persuasive. The Office has not deemed the submission of an RCE under this factual scenario as a paper that is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). In addition, because the RCE was submitted within 3 months of the mail date of the notice of allowance, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b). Accordingly, the ten-day determination is accurate.

After review of this decision, this application will be forwarded to the file repository for proper storage of the application.

Because applicant out of good faith and candor are bringing an alleged error in applicant's favor this to the attention of the Office, there is no fee assessed. The Office thanks applicant for their good faith and candor.

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

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

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Shu Sato :
Application No. 10/648,509 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. Q77094 :

This is a decision on the petition, filed December 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3662 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. _____

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) :Shu Sato
Application No. :10/648,509
Filed :August 27, 2003

The above-identified application has been assigned Patent No. 6,982,795 and an issue date of January 3, 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 3, 2006:

> "All reference to Patent No. 6,982,795 to Shu Sato of Japan for SURFACE PLASMON REASONANCE MEASURING APPARATUS appearing in the Official Gazette of January 3, 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 Patent and Trademark Office
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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Fumitaka Arai et al :
Application No. 10/648,510 :
Filed: August 27, 2003 :
Attorney Docket No. 241987US2S :

ON PETITION

This is a decision on the petition, filed August 16, 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 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114.

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

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

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Makoto Katase :
Application No. 10/648,519 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 109761.01 :

This is a decision on the petition, filed June 2, 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2873 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).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,523	08/26/2003	Dong-Hoon Kim	21C-0065	4676

7590 08/14/2006

CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002

EXAMINER	
NEGRON, ISMAEL	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 08/14/2006

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
WASHINGTON, D.C. 20231
www.uspto.gov

July 25, 2006

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002
(860) 286-2929

In re Application of:
KIM et al.
Application No. 10/648,523
Filed: August 26, 2003
For: LIGHT GUIDE PLATE WITH LIGHT REFLECTION PATTERN

DECISION ON PETITION TO CHANGE INVENTORSHIP

This is a decision on the petition under 37 C.F.R. § 1.48(A) filed March 21, 2006, to correct Inventorship in the above referenced Patent Application.

The instant application was filed August 26, 2003 listing Dong-Hoon KIM, Jong-Dae PARK, Kyu-Seok KIM, Jeong-Hwan LEE and Jae-Ho Jung as the only inventors. Petitioner requests that the above-identified application amend the inventorship to add the following inventors, which were unintentionally omitted:

Man-Suk KIM
Chul-Goo CHI
O-Yong JEONG

Based on the filed record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the technical support staff for the name correction, and will then be returned to the examiner to continue the examining process.

Paula A. Bradley, Supervisory Patent Examiner
Technology Center 2800

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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
10/648,523	08/26/2003	2875	2734	21C-0065	30	57	5

CONFIRMATION NO. 4676

CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002

CORRECTED FILING RECEIPT

OC000000019931937

OC000000019931937

Date Mailed: 08/07/2006

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)

Dong-Hoon Kim, Suwon-si, KOREA, REPUBLIC OF;
Jong-Dae Park, Seoul, KOREA, REPUBLIC OF;
Kyu-Seok Kim, Yongin-si, KOREA, REPUBLIC OF;
Jeong-Hwan Lee, Suwon-si, KOREA, REPUBLIC OF;
Jae-Ho Jung, Yongin-si, KOREA, REPUBLIC OF;
Man-Suk Kim, Suwon-si, KOREA, REPUBLIC OF;
Chul-Goo Chj, Seoul, KOREA, REPUBLIC OF;
O-Yong Jeong, Gyeonggi-do, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **23413**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-4629 01/23/2003
REPUBLIC OF KOREA 2003-42603 06/27/2003

If Required, Foreign Filing License Granted: 11/15/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/648,523

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Light guide plate with light reflection pattern

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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November 6, 2006

Patent No. : 6,916,040 B1
Ser. No. : 10/648550
Inventor(s) : Levine
Issued : July 12, 2005
Title : **VEHICLE AIR BAG MINIMUM DISTANCE ENFORCEMENT APPARATUS, METHOD AND SYSTEM**
Docket No. : 15630/14

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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AUG 27 2007

OFFICE OF PETITIONS

In re Patent No. 6,916,040 :
Issue Date: July 12, 2005 :
Application No. 10/648,550 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 15630/14 :

This is a decision on the petition filed December 5, 2006, which is being treated as a petition under 37 CFR 3.81(b) to correct the assignee's information on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests to correct the assignee's information to "Vehicle Safety Systems, Inc., Valhalla, NY (US)."

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). *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Vehicle Safety Systems, Inc. to Vehicle Safety Systems, Inc. was recorded on December 5, 2006, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

Irvin Dingle
Petition Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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APR 14 2009

OFFICE OF PETITIONS

In re Application of :
Mohan Kalkunte et al. :
Application No. 10/648,573 : DECISION ON PETITION
Filed: August 26, 2003 : PURSUANT TO
Attorney Docket No.: 14221US02 : 37 C.F.R. § 1.181(A)
Title: METHOD AND SYSTEM FOR :
HANDLING TRAFFIC FOR SERVER :
SYSTEMS :

This is a decision on the petition filed January 6, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

Receipt of the concurrently submitted Appeal Brief is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed June 6, 2008, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 7, 2008. A notice of abandonment was mailed on December 23, 2008.

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

37 C.F.R. § 1.134 sets forth, *in toto*:

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

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney

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

37 C.F.R. § 1.134 sets forth, *in toto*:

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> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney

docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that **a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.**

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

(Emphases added).

ANALYSIS

With this petition, Petitioner has stated that the notice of June 6, 2008 was not received at the correspondence address of record.[1]

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

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1 Petition, page 2 and Howard statement of facts, paragraph 3.

First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO. Reference has been made to the usage of an "electronic docketing system,"[2] but it has not been explained how this system operates.

Second, Petitioner has not established that the docketing system is sufficiently reliable.

Third, the petition is silent as to any search that might have been performed of the file jacket (or the equivalent) and the application contents, in order to determine if the notice of June 6, 2008 was received. Petitioner has indicated "a reasonable examination of Assignee's files and records" has been performed, however it is not clear if this search included the file jacket and the application contents.

Fourth, Petitioner has not provided a copy of the record(s) used by the practitioner where the allegedly non-received Notice of Allowance and Issue Fee Due would have been entered had it been received.

Finally, Petitioner has not provided a copy of the master docket for the firm, or stated that no such master docket exists and submitted other forms of evidence.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(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,[3] hand-delivery,[4] or facsimile.[5] Registered

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2 Howard statement of facts, paragraph 2.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

The alternate petition under 37 C.F.R. §1.137(b) will be held in abeyance so as to afford Petitioner the opportunity to file a renewed petition to have the holding of abandonment withdrawn - the associated fee has not been charged to Petitioner's Deposit Account. **If Petitioner would prefer to seek revival under the unintentional standard, a response to this decision should be submitted with words to this effect.**

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.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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JUN 22 2009

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of	:	
Mohan Kalkunte et al.	:	
Application No. 10/648,573	:	DECISION ON RENEWED PETITION
Filed: August 26, 2003	:	PURSUANT TO
Attorney Docket No.: 14221US02	:	37 C.F.R. § 1.181(A)
Title: METHOD AND SYSTEM FOR	:	
HANDLING TRAFFIC FOR SERVER	:	
SYSTEMS	:	

This is a decision on the renewed petition filed June 12, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed June 6, 2008, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 7, 2008. A notice of abandonment was mailed on December 23, 2008.

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

37 C.F.R. § 1.134 sets forth, *in toto*:

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

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application

number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on January 6, 2009, where Petitioner stated that the notice of June 6, 2008 was not received at the correspondence address of record.[1] The original petition was dismissed via the mailing of a decision on April 14, 2009.

With this renewed petition, Petitioner has indicated that Office communications are entered into a commercially available

1 Original petition, page 2 and Howard statement of facts, paragraph 3.

electronic docketing system,[2] and that a search of the file jacket and the application file contents was performed, and this search indicates that the notice of June 6, 2008 was not received.[3] Moreover, Petitioner has indicated that a master docket does not exist,[4] and has provided a copy of the file jacket,[5] a print-out of the docket that is associated with this particular application,[6] and copies of "Actions Due Reports."[7]

However, the statement that Petitioner has included describing the system used for recording an Office action received at the correspondence address of record with the USPTO is insufficient to either describe the docketing system or establish the reliability of the same, in that it is silent as to **how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner**. On second renewed petition, **Petitioner should address the following inquiries**:

- **Does this computer-based docketing software program generate reports on a periodic basis? If so, are these reports distributed to the responsible attorney?**
- **Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorney?**

A description of the pages entitled "Patent Actions Due Report" has not been provided. If these pages constitute reminders that are generated by the electronic docketing system, and if these pages are distributed to the responsible attorney on a periodic basis, this should be explicitly stated on second renewed petition.

CONCLUSION

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

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2 Beremski statement of facts, paragraph 2.
3 Id. at 5.
4 Id. at 6.
5 Exhibit A.
6 Exhibit B.
7 Exhibits C-E.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[8] hand-delivery,[9] or facsimile.[10] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[11]

The alternate petition under 37 C.F.R. §1.137(b) which was submitted on January 6, 2009 will be held in abeyance so as to afford Petitioner the opportunity to file a renewed petition to have the holding of abandonment withdrawn - the associated fee has not been charged to Petitioner's Deposit Account. If Petitioner would prefer to seek revival under the unintentional standard, a response to this decision should be submitted with words to this effect.

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.[12] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300- please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
12 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 of Petitioner's further action(s).

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Mohan Kalkunte et al.	:	
Application No. 10/648,573	:	DECISION ON SECOND RENEWED
Filed: August 26, 2003	:	PETITION PURSUANT TO
Attorney Docket No.: 14221US02	:	37 C.F.R. § 1.181(A)
Title: METHOD AND SYSTEM FOR	:	
HANDLING TRAFFIC FOR SERVER	:	
SYSTEMS	:	

This is a decision on the second renewed petition filed July 9, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed June 6, 2008, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 7, 2008. A notice of abandonment was mailed on December 23, 2008.

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

37 C.F.R. § 1.134 sets forth, *in toto*:

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

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on January 6, 2009, where Petitioner stated that the Office communication of June 6, 2008 was not received at the correspondence address of record.[1] The original petition was dismissed via the mailing of a decision on April 14, 2009.

A renewed petition was filed on June 12, 2009, where Petitioner indicated that Office communications are entered into a commercially available electronic docketing system,[2] a search of the file jacket and the application file contents was performed

1 Original petition, page 2 and Howard statement of facts, paragraph 3.
2 Beremski statement of facts submitted with renewed petition, paragraph 2.

and this search indicates that the notice of June 6, 2008 was not received,[3] and a master docket does not exist.[4] Petitioner provided a copy of the file jacket,[5] a print-out of the docket that is associated with this particular application,[6] and copies of "Actions Due Reports."[7] The renewed petition was dismissed via the mailing of a decision on June 22, 2009.

With this second renewed petition pursuant to 37 C.F.R. § 1.181(a), Petitioner has indicated that the computer-based docketing software program generates reports that are distributed to the responsible attorney on a weekly and monthly basis, and these reports further serve as periodic reminders.[8]

CONCLUSION

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 Office communication of June 6, 2008 was not received.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Office communication of June 6, 2008, and will set a new period for response.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[9] All other inquiries

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3 Id. at 5.
4 Id. at 6.
5 Exhibit A, submitted with renewed petition.
6 Exhibit B, submitted with renewed petition.
7 Exhibits C-E, submitted with renewed petition.
8 Second renewed petition, page 3.
9 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 of Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

MAILED

MAY 18 2010

OFFICE OF PETITIONS

In re Application of :
Mark Grayson et al :
Application No. 10/648,592 : DECISION ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 50325-0750 :

This is a decision on the petition under 37 CFR 1.314, filed May 4, 2010, to defer issuance of the patent. A patent number of 7,724,700 and issue date of May 25, 2010 have been assigned.

The petition is **DISMISSED**.

Issuance of a patent cannot be deferred after an application has received a patent number and an issue date unless the application is withdrawn from issue under 37 CFR 1.313(b). *See* MPEP 1306.01. Petitioner does not assert or satisfy the criteria for withdrawal of the application from issue pursuant to the provisions of 37 CFR 1.313(c). Accordingly, the petition considered under any reasonably applicable grounds cannot be granted.

This matter is being returned to the Office of Data Management.

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6930061

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

MINSUN OH HARVEY
PRIMARY EXAMINER

2818
Art Unit

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/648,634	08/25/2003	2834	804	2233/SPRI.103531	2	23	3

CONFIRMATION NO. 5181

32423
SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

CORRECTED FILING RECEIPT

OC000000011879412

Date Mailed: 02/11/2004

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)

Larry L. Johnson, Overland Park, KS;

Assignment For Published Patent Application

Sprint Communications Company L.P.;

Domestic Priority data as claimed by applicant

This application is a CON of 10/298,074 11/15/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/15/2003

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Proton exchange membrane based power system for a telecommunication facility

Preliminary Class

290

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	:	
FRIEDBAUER et al.	:	
Application No. 10/648,637	:	DECISION ON APPLICATION
Filed: 08/25/2003	:	FOR
Attorney Docket No. 659-1765	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 29, 2007. Applicants request correction of the patent term adjustment from one hundred ten (110) days to four hundred thirty-one (431) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred thirty-one (431) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 23, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date was 110 days. Applicants timely filed the instant application for patent term adjustment[1]. Applicants

[1] PALM Records indicate that the Issue Fee payment was received on August 29, 2007.

dispute the reduction of 321 days for applicants' delay in responding to the Notice to File Missing Parts of November 17, 2003.

Applicants state that the Office mailed a Notice to File Missing Parts of Nonprovisional Application on November 2, 2004. Applicants assert that they filed their response on January 3, 2005, within three months of the mailing date of the Notice to File Missing Parts. Therefore, applicants aver that they did not fail to engage in reasonable efforts to conclude processing of the application. See 37 CFR 1.704(b). Applicants note that Patent Term Adjustment History in the Patent Application Information Retrieval (PAIR) system indicates that the Notice to File Missing Parts was originally mailed, as well as withdrawn, on November 17, 2003. Applicants assert that they did not receive the Notice to File Missing Parts of November 17, 2003, and that a copy of the Notice is not part of the Image File Wrapper (IFW) accessible through PAIR. Therefore, applicants request a correction of the mailing date of the Notice to File Missing Parts to November 2, 2004, for purposes of calculating the period of adjustment of the patent term pursuant to 37 CFR 1.704(b).

Consideration of applicants' evidence is unnecessary. The Image File Wrapper is the official record of the application. A review of IFW and other Office records support a conclusion that a Notice to File Missing Parts was originally prepared on November 17, 2003, but that no such Notice was mailed to applicants on that date. Moreover, the Notice to File Missing Parts of November 17, 2003, is not of record in the application.

Under these circumstances, the November 2, 2004 date of mailing of the Notice to File Missing Parts should be properly used for purposes of calculating compliance with 37 CFR 1.704(b). The response of January 3, 2005, was complete and proper, and was filed within the three-month period under 37 CFR 1.704(b). Thus, the Office should not have assessed applicants a delay of 321 days.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **431 days** (494 days of PTO delay - 63 days of applicant delay = 431 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 is being referred 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 and is cut-off by virtue of the filing of a request for continued examination).

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Thursday
Date: 11/29/2007

PALM INTRANET

Time: 20:13:59

PTA Calculations for Application: 10/648637			
Application Filing Date:	08/25/2003	PTO Delay (PTO):	494
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	384
Post-Issue Petitions:	0	Total PTA (days):	431
PTO Delay Adjustment:	321		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	11/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	321		
53	07/23/2007	MAIL NOTICE OF ALLOWANCE			
52	06/27/2007	ISSUE REVISION COMPLETED			
51	06/27/2007	DOCUMENT VERIFICATION			
50	06/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	06/25/2007	NOTICE OF ALLOWABILITY			
48	05/08/2007	DATE FORWARDED TO EXAMINER			
47	05/05/2007	RESPONSE AFTER NON-FINAL ACTION			
46	02/06/2007	MAIL NON-FINAL REJECTION			
45	02/05/2007	NON-FINAL REJECTION			
44	01/25/2007	DATE FORWARDED TO EXAMINER			
43	01/19/2007	RCE- AF PROCESSED			
42	01/25/2007	DATE FORWARDED TO EXAMINER			
41	01/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		57	32
40	01/25/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
39	01/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	01/10/2007	MAIL ADVISORY ACTION (PTOL - 303)			
36	01/08/2007	ADVISORY ACTION (PTOL-303)			
35	12/29/2006	DATE FORWARDED TO EXAMINER			
34	12/18/2006	AMENDMENT AFTER FINAL REJECTION			
33	12/18/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

32	08/23/2006	MAIL FINAL REJECTION (PTOL - 326)			
31	08/11/2006	FINAL REJECTION			
30	06/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/09/2006	REFERENCE CAPTURE ON IDS			
28.7	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	26
28	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	06/16/2006	DATE FORWARDED TO EXAMINER			
26	06/09/2006	RESPONSE AFTER NON-FINAL ACTION		6	24
25	03/09/2006	CORRESPONDENCE ADDRESS CHANGE			
24	03/03/2006	MAIL NON-FINAL REJECTION	494		-1
23	03/02/2006	NON-FINAL REJECTION			
22	12/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/23/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	12/23/2003	REFERENCE CAPTURE ON IDS			
19.7	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	12/29/2003	PRELIMINARY AMENDMENT			
17	02/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	01/18/2005	APPLICATION RETURN FROM OIPE			
15	01/18/2005	APPLICATION RETURN TO OIPE			
14	01/18/2005	APPLICATION DISPATCHED FROM OIPE			
13	01/18/2005	APPLICATION IS NOW COMPLETE			
12	01/03/2005	ADDITIONAL APPLICATION FILING FEES		321	5
11	01/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	08/25/2003	ADDITIONAL APPLICATION FILING FEES			
8	08/25/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	11/17/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
5	11/17/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

4	11/07/2003	CASE CLASSIFIED BY OIPE			
3	11/07/2003	CLEARED BY OIPE CSR			
2	09/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/25/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
John Barrett George
Application No. 10/648,675
Filed: August 25, 2003
Attorney Docket No. PU 030232

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 27, 2006. 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 June 28, 2006. A Notice of Abandonment was mailed on January 19, 2007.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted on with the instant petition.

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

This application is being forwarded to Art Unit 2629 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

cc: Francis A. Davenport
2 Independence Way
Princeton, NJ 08540

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Joshy Joseph	: DECISION ON REQUEST FOR
Patent Number	: 7631314	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/648,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **942** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02154

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OFFICE OF PETITIONS

In re Application of :
Eugene Marlowe Goble, et. al. :
Application No. 10/648,688 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. INNO-29 CON :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 31, 2006, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed January 11, 2006. A Notice of Abandonment was mailed on October 6, 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 3734, for consideration of the amendment previously submitted on April 17, 2006[1].

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The Amendment filed on April 17, 2006, contained a Certificate of Mailing under 37 CFR 1.8 dated April 11, 2006.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 5, 2010

TO SPE OF : ART UNIT 3621 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/648,723 Patent No.: 7,162,454 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be approved?
See COCIN dated 02-05-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Changes Claim Scope.

/Andrew J. Fischer/ — **SPE**

3621 — **Art Unit**

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ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

May 3, 2010

Patent No.: 7,162,454 B1
Applicant : Irah H. Donner, et al.
Issued : January 9, 2007
For : **SYSTEM AND METHOD FOR REALLOCATING AND/OR UPGRADING AND/OR SELLING TICKETS, OTHER EVEN ADMITTANCE MEANS, GOODS AND/OR SERVICES**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged errors in the claims the changes requested by applicant changes the claim scope. Therefore the changes are disapproved by the examiner.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Decisions and Certificates of Correction
Antonio Johnson
(571)272-0483

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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OFFICE OF PETITIONS

In re Patent No. 7,427,343 :
Issued: September 23, 2008 :
Application No. 10/648,725 : PATENT TERM ADJUSTMENT
Filed: August 25, 2003 :
Dkt. No.: 33205-709 :

This is a decision on the "Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. § 1.705(d)," filed November 24, 2008.

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

The above-identified application matured into U.S. Pat. No. 7,427,343 on September 23, 2008. The patent issued with a PTA 707 days. The 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). Patentees request that the adjustment be increased from 707 days to 1,322 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.703(b), of 760 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 814 days overlap by 145 days; thus, 615 days as these periods do not overlap because they do not occur on the same day. The 760-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 25, 2003, and the patent having been issued on September 23, 2008. Patentees assert that in addition to this 615-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 814 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 107 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only a portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,429 days (deemed by applicants to be the sum of the period of three year delay (760 days) and the period of examination delay (814 days), reduced by 145 days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,322 days (760 days *plus* 814 days *less* 145 days of overlap *less* 107 days of applicant delay).

The Office agrees that as of the time that the patent issued on September 23, 2008, the application was pending three years and 760 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 814 days is correct. At issue is whether patentees should accrue an additional 760 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 814 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 760 days overlap. 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).

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

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

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

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any

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 entire period during which the application was pending before the Office, August 25, 2003, to the date the patent issued on September 23, 2008. Prior to the issuance of the patent, 814 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 760 days for Office delay in issuing the patent overlap with the 814 days of Office delay. During that time, the issuance of the patent was delayed by 814 days. The Office did not delay 814 days and then delay an additional 760 days. Accordingly, as the 760 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 814 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e). No additional fees are required.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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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
10/648,726	08/26/2003	2681	1446	14418US02	17	40	7

CONFIRMATION NO. 4708

CORRECTED FILING RECEIPT

OC000000011902315

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 02/13/2004

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

Applicant(s)

Ronald L. Mahany, Cedar Rapids, IA;

Assignment For Published Patent Application

INTERMEC TECHNOLOGIES CORPORATION, Everett, WA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/357,429 07/20/1999 PAT 6,665,536
which is a CON of 08/878,357 06/27/1997 PAT 5,960,344
which is a CIP of 08/772,895 12/24/1996 ABN
which is a CIP of 08/696,086 08/13/1996 ABN
which is a CON of 08/238,180 05/04/1994 PAT 5,546,397
which is a CIP of 08/197,392 02/16/1994 ABN
which is a CIP of 08/170,121 12/20/1993 ABN

Foreign Applications

UNITED STATES OF AMERICA PCT/US96/09474 06/03/1996

If Required, Foreign Filing License Granted: 11/17/2003

Projected Publication Date: 03/04/2004

Non-Publication Request: No

Early Publication Request: No

Title

Local area network having multiple channel wireless access

Preliminary Class

455

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).

06 MAY 2004

#5

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Malcolm Reid
Gray Plant Mooty Mooty &
Bennett, P.A.
P.O. Box 2906
Minneapolis, MN 55402-0906

In re Application of	:	DECISION ON
Huijbers et al	:	
US Application No. 10/469,911 and 10/648,734	:	RENEWED PETITION
Filing Date: 25 August 2003	:	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 88405	:	AND MERGING THE
For: HYDRAULICALLY ACTUATED HOLDER	:	US APPLICATON FILES

This is in response to applicant's "REPLY TO DECISION ON PETITION UNDER 37 CFR 1.137(b)" faxed 19 December 2003 which is being treated as renewed petition under 37 CFR 1.137(b) and to the communication filed on 28 October 2003, requesting that the copy of the application papers submitted therewith be treated as being received in the United States Patent and Trademark Office (USPTO) on 25 August 2003. No petition fee is required.

BACKGROUND

In a decision from this Office on 30 September 2003, the 10 September 2003 communication forwarding copies of application papers purportedly filed on 25 August 2003 was not treated on the merits because it signed by "Anne M McCloskey" who was apparently not a practitioner registered to practice before the USPTO. The decision also dismissed the petition under 37 CFR 1.137(b) to revive the international application no.: PCT/US00/04714 because the petition was not accompanied by the "required reply" as specified therein.

On 28 October 2003 applicants filed a petition that states that the following is a copy of the Post Office Express Mail receipt for documents mailed on August 25, 2003. The submitted petition includes, inter alia: 1) A copy of the customer receipt of "Express Mail" Label No. EE353633612US, 2) Transmittal Letter, 3) Application papers, 4) Combined Declaration and Power of Attorney, and 5) Postcard itemizing the above the documents.

On 19 December 2003 applicants filed a petition "REPLY TO DECISION ON PETITION UNDER 37 CFR 1.137(b)" which contain, inter alia, a copy of the petition to revive the current application.

DISCUSSION

1. 28 October 2003:

A review of USPTO record reveals that applicant's originally filed papers (application) were received in the USPTO on 25 August 2003 and was assigned application number: 10/648,734.

Consequently, the 28 October 2003 petition is **DISMISSED** as **Moot**. The application papers contained in the 10/469,911 file wrapper will be placed in application 10/648,734 and the 10/469,911 application will be inactivated. Applicant are advised to use application no. 10/648,734 in all future communications.

2. RENEWED PETITION UNDER 1.137(b):

Application no. 10/648,734 was properly treated as a filing under 35 U.S.C. 111(a) since it was submitted with a "Utility Patent Application Transmittal" letter (Form PTO/SB/05). Applicant has filed a petition to revive international application PCT/US02/04714, presumably for purposes of co-pendency with application 10/648,754.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

The petition is not deemed to satisfy the requirements under 37 CFR 1.137(b).

Applicants have provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 37 CFR 137(b)(3). In this application, no terminal disclaimer is required. However, Petitioner has not met requirement (1) because the reply is not the proper "required reply."

While the filing of a continuing application may be accepted as satisfying the "required reply" requirement, the application (See MPEP § 711.03(c)) does not claim benefit under 35 USC 120 to the international application in accordance with 37 CFR 1.78.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

The correct application no.: is 10/648,734 and all future correspondence dealing with the above application should refer to such application number. The papers filed on 28 October 2003 and 19 December 2003 have been placed in Application No.: 10/648,734.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

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OFFICE OF PETITIONS

In re Application of :
Brodbeck et al. :
Application No. 10/648,759 : DECISION ON PETITION
Filed: 25 August, 2003 :
Atty Docket No. ARC 2882 N1 :

This is a decision on the petition filed on 12 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 December, 2004, for failure to timely submit replacement drawings as required by the

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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 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)).

Notice to File Corrected Application Papers mailed on 14 October, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 July, 2005.

Petitioner has filed replacement drawings with the present petition.

Receipt of the revocation and power of attorney filed on 25 May, 2005, is acknowledged.

It is noted that the petition does not include the registration number for the registered attorney or agent who signed it. Pursuant to 37 CFR 1.34, a registered patent attorney or agent acting in a representative capacity must specify his or her registration number and name with his or her signature. Pursuant to 37 CFR 1.34, the registration number should be included the registered patent attorney or patent agent should specify his or her registration number and name with his or her signature. As registered attorney or agent who signed the petition, Edgar R. Cataxinos, has been appointed as an attorney of record, however, the petition will be accepted. However, all future filings should include the attorney or agent's registration number.

The application is being referred to the Office of Initial Patent Examination 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

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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OFFICE OF PETITIONS

In re Application of
Angelo Bosco et al.
Application No. 10/648,776
Filed: August 12, 2003
Attorney Docket No. 851063.485

DECISION GRANTING PETITION

This is a decision on the petition to correct filing date, filed under 37 CFR 1.10(e)[1] on December 13, 2003, requesting that the above-identified application be accorded a filing date of August 12, 2003 rather than the presently accorded filing date of August 25, 2003.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on August 12, 2003. In support, petitioner provided a copy of the Express Mail label, receipt No. EV336610850US, showing a Date-in of, August 12, 2002. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition.

Petitioners argue that the Express Mail packet no. EV336610850US was returned by the United States Postal Service (USPS) because due to USPS error, the addressee (USPTO) was obliterated and the postal service was unable to deliver the package. The package was returned to sender on August 22, 2003. Petitioners have provided a copy

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[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

of the returned Express Mail Label as proof of the allegation. The package was then remailed on August 25, 2003 using Express Mail Label EV336611078US. The declaration of David V. Carlson, Attorney of Record, wherein Mr. Carlson attests to the sequence of events that lead to the wrong filing date being accorded the above identified application.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on August 12, 2003.

In view of the above, the petition is granted. No fee is due and none will be charged.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of August 12, 2003, not August 25, 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

[2]MPEP 513.

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

Applicant: Ni et al.
Appl. No.: 10/648,786
Filing Date: August 27, 2003
Title: DEATH DOMAIN CONTAINING RECEPTOR 4
Pub. No.: US 2004/0136950 A1
Pub. Date: July 15, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 15, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

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

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

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OFFICE OF PETITIONS

In re Application of :
NI, et al. :
Application No. 10/648,786 : DECISION GRANTING PETITION
Filed: August 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1488.130000B/EKS/EJH** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 2, 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 February 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Shannon A. Carroll, Ph.D. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he or she is authorized to represent the particular party on whose behalf he or she acts in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 1646 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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 : October 3, 2006

Patent No. :7,086,789
Inventor(s) :Nobuio Tomita et al.
Issued :August 8, 2006
Title :OPTICAL ELEMENT MODULE WITH A PRIMARY COATED OPTICAL
:FIBER
Docket No. :1326-017

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

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

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

James V. Costigan
Hedman & Costigan, P.C.
1185 Avenues of the Americas
New York, NY 10036-2646

CBN/arg

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STE 240
BETHESDA, MD 20817

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OFFICE OF PETITIONS

In re Application of :
Mark W. Kiehl :
Application No. 10/648,804 :
Filed: August 27, 2003 :
Attorney Docket No. 8200.739 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak, an attorney of record.

Thomas P. Liniak has been withdrawn as attorney or agent of record; the other attorneys remain of record.

This application is being referred to Technology Center AU 1725, for the mailing of the Notice of Allowance of March 6, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Kilpatrick Stockton LLP
607 14th Street, N.W.
Washington DC 20005

In re Application of:
Vincent ARMENTANO, et al.
Application No. 10/648,808
Filed: August 27, 2003
For: METHOD AND SYSTEM FOR KNOWLEDGE MANAGEMENT AND EFFECTIVE MENTORING OF INSURANCE CLAIM PROFESSIONALS

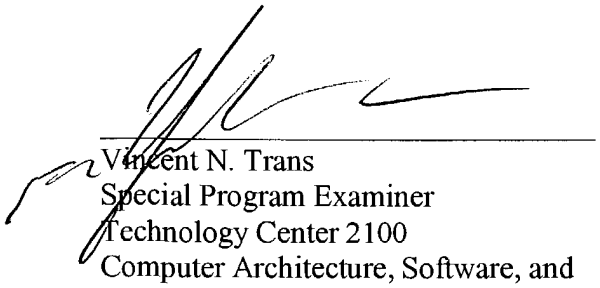
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 25, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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



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

cc: Ropes & Gray LLP
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NEW YORK, NY 10022

In re Application :
Vincent Armentano et al. :
Application No. 10/648,808 : DECISION ON APPLICATION
Filed: August 27, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **2003536.129 US2** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed November 9, 2009. Applicant requests that the determination of patent term adjustment be corrected from 1077 days to 1633 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 of the patent term adjustment concerning those regulations 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

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

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

/Kery A. Fries/

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

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

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OFFICE OF PETITIONS

AGOURON PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

In re Application of :
Peng Cho Tang et al. :
Application No. 10/648,810 : DECISION ON PETITION
Filed: August 27, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: 034536-0406 :
Title: 4-HETEROARYL-3-HETEROARYLIDENYL-2-INDOLINONES AND THEIR USE AS PROTEIN KINASE INHIBITORS :

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 17, 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 September 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted

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.

for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on December 21, 2005.

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**.

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

2 See MPEP §710.02(e).

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LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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OFFICE OF PETITIONS

In re Application of	:	
Zook et al.	:	
Application No. 10/648,812	:	DECISION ON APPLICATION
Filed: August 26, 2003	:	FOR
Atty Docket No. 690068.569	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed December 15, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) to two (2) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two **(2)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 28, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The period of adjustment of 2 days for Office delay was reduced by 21 days for applicant delay. On December 15, 2004, applicants timely[1] submitted an

[1] PALM records indicate that the Issue Fee was also received in the Office on December 15, 2004.

application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 2 days. Applicants dispute the reduction of 21 days attributed to delay in responding to the Notice to File Missing Parts of Application mailed November 18, 2003. Applicants state that their response was received in the Office on January 16, 2004, and thus, there was no applicant delay.

Applicants further state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed November 18, 2003, is of record in the application with a date of receipt by the Office of January 16, 2004. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicant a delay of 21 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is TWO (2) days.

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

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

/Karin Ferriter/ for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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OFFICE OF PETITIONS

In re Patent No. 6,903,106	:
Zook et al.	: DECISION ON REQUEST FOR
Issue Date: June 7, 2005	: RECONSIDERATION OF
Application No. 10/648,812	: PATENT TERM ADJUSTMENT
Filed: August 26, 2003	: and
Atty Docket No. 690068.569	: NOTICE OF INTENT TO ISSUE A
	: CERTIFICATE OF CORRECTION
	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 27, 2005. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) on the face of the patent be corrected from twelve (12) days to fifty-five (55) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of fifty-five **(55)** days.

On June 7, 2005, the above-identified application matured into U.S. Patent No. 6,903,106. The instant request for reconsideration filed June 27, 2005, 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 12 days.

By decision mailed March 30, 2005, the initial determination of patent term adjustment at the time of the mailing of the notice of allowance was corrected to two (2) days. At issuance of the patent, the patent term adjustment was increased by ten (10) days for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met. See § 1.706(b). Patentees contend that the patent term adjustment should have been increased by fifty-three days for this delay.

Patentees are correct. The Issue Fee was received on December 15, 2004 (not January 28, 2005), and at that time, all outstanding requirements had been satisfied; however, the patent

did not issue until June 7, 2005, four months and 53 days later. Accordingly, the application is entitled to an additional period of adjustment of 53 days and a total patent term adjustment of 55 days.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of fifty-five (55) days.

Patentees' submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by fifty-five (55) days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

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

Attachments: Copy of Draft Certificate of Correction

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OFFICE OF PETITIONS

In re Application of
Van Bruggen, et al.
Application No. 10/648,816
Filed: August 26, 2003
Attorney Docket No. 11669.113USC1

DECISION GRANTING PETITION

This is a decision on the petition captioned under 37 CFR 1.153(e) filed December 8, 2003 (certificate of mailing date December 4, 2003) and supplemented on December 18, 2003, to accord the above-identified application a filing date of August 26, 2003. The petition will be treated under 37 CFR 1.182.

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

On August 26, 2003, the application was deposited.

On November 20, 2003, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition was filed. The continuation application transmittal sheet found in the application file incorporated by reference the entire disclosure of parent application no. 09/218,481. The petition states that the 15 sheets of drawings filed with the instant petition were included in the parent application.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on August 26, 2003, albeit in the file of another application, i.e., application No. 09/218,481. Therefore, on petition under 37 CFR 1.182, the application may be accorded the requested filing date of August 26, 2003. MPEP 201.06(c) The petition fee of $130 is required since the petition

was required to accord the application the requested filing date. Deposit account no. 13-2725 will be charged the petition fee.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.[1]

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **August 26, 2003**, using the application papers filed on August 26, 2003 and the drawings filed on December 8, 2003 (certificate of mailing date December 4, 2003).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The Office assumes that the drawings are a true and exact copy of the drawings submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the disclosure of the parent application in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.

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ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
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SANTA CLARA CA 95051

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OFFICE OF PETITIONS

In re Application of	:	
Fiekowsky et al.	:	
Application No. 10/648,819	:	DECISION GRANTING
Filed: 25 August, 2003	:	PETITION
Atty Docket No. AFFYP008C2	:	

This is a decision on the petition filed on 24 September, 2004, which is treated as a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional 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) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). 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) of the prior-filed application, unless previously submitted;[1]

[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 and indicating the relationship of the applications. Cross references to

(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) 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 present pending application was filed on 25 August, 2003, and was pending, at the time of filing, of the instant petition. A reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application Nos. 09/699,852, 08/823,824, and 08/195,889 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is

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other related applications may be made when appropriate. (*see* § 1.14).

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.

The application will be referred to Technology Center 2800 for processing the amendment filed with the present petition, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed nonprovisional applications.

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
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Corrected Filing Receipt

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(F/K/A WORKMAN NYDEGGER & SEELEY)
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SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of:
Mizukami, et al.
Patent No. 6,877,906
Issue Date: 12 April, 2005
Application No. 10/648,822
Filed: 26 August, 2003
Attorney Docket No.: 14321.57

ON PETITION

This is a decision on the request filed on 8 February, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81–the Issue Fee transmittal was submitted with an error as to the assignee identification.

NOTE:

Petitioner is requested to place complete contact information–including mail addresses–on petitions to eliminate the need for searches in connection with the matter(s).

The petition is **GRANTED**.

BACKGROUND

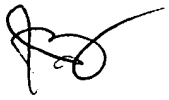
As is evident from the caption, above, the instant application:

- was filed on 11 January, 226 August, 2003005; and
- issued as a patent on 12 April, 2005.

Petitioner has demonstrated that the assignment was timely filed and recorded prior to issue.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction in due course consistent with the recorded assignment to reflect issuance to Assignee **Nippon Telegraph and Telephone Corporation**, [Tokyo, JP], the substance of which was filed herein.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



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

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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of	:	
Robert Arnold et al.	:	
Application No. 10/648,832	:	DECISION ON PETITION
Filed: August 27, 2003	:	TO WITHDRAW
Attorney Docket No. 449122056800	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 1, 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: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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OFFICE OF PETITIONS

In re Application of
Raleigh, et al. :
Application No. 10/648,841 :
Filing Date: 26 August, 2003
Attorney Docket No. APTI: 064 :

This is a decision on the petition filed on 14 December, 2004, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a).

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(a) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts mailed on 2 January, 2004, with reply due absent extension of time on or before 2 March, 2004;
- the instant application went abandoned after midnight 2 March, 2004;
- the Office mailed a Notice of Abandonment on 3 November, 2004;
- with the instant petition (with fee authorization), Petitioner submits the required reply

(oath/declaration with fee authorization), alleges timely transmittal of the reply to the Office of Initial Patent Examination (OIPE), and supports the allegation with evidence of a transmittal letter/form (to OIPE) bearing a certificate of mailing and extension of time request with fee authorization.

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]))

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] 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 requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) hereby is **granted**, and the petition fee, along with the basic filing fee, surcharge and extension of time fees are charged as authorized to Deposit Account 18-2056.

The file is being held for consideration of another matter.

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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OFFICE OF PETITIONS

In re Application of :
Machina et al. :
Application No. 10/648,847 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. APTI:066 :

This is a decision on the petition under 37 CFR §1.137(a), filed December 14, 2004. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application became abandoned for failure to timely submit a response to the Notice to File Missing Parts mailed January 2, 2004. The notice set an extendable 2 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on March 2, 2004. A Notice of Abandonment was mailed November 3, 2004.

Petitioner states a response and a request for a four month extension of time were mailed on July 2, 2004. In response to the Notice of Abandonment petitioner conducted a search and discovered the post card mailed with the response had not been returned. A review of the deposit account showed the authorized fees had not been charged. Petitioner has submitted a copy of the response and the request for extension of time which contains a certificate of mailing of July 2, 2004 in keeping with 37 CFR 1.8.[1] .

---

[1]1.8 Certificate of mailing or transmission.
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(I) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in

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.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

No petition fee has been charged and none is due.

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

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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accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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OFFICE OF PETITIONS

In re Application of
William Burton Hall
Application No. 10/648,851
Filed: August 26, 2003
Attorney Docket No. KCOS122355

ON PETITION

This is a decision on the petition under 37 CFR §1.137(a) to revive the above-identified application, filed August 18, 2006. This petition will be treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

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

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed May 27, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 28, 2005. A Notice of Abandonment was mailed on August 4, 2006.

Petitioner asserts that the non-final Office Action mailed on May 27, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. Further review shows a power of attorney or authorization of agent which included a request for change of correspondence was submitted on March 9, 2004. Thus the Office Action was improperly mailed.

The petition fee in the amount of $500.00 will be refunded.

This application is being forwarded to Art Unit 3728 for review of the amendment submitted August 18, 2006. The re-mailing of the non-final Office Action is not required.

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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P.O. Box 1450
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HOGAN & HARTSON LLP
500 S. GRAND AVENUE, SUITE 1900
LOS ANGELES, CA 90071-2611

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MAR 1 5 2006

OFFICE OF PETITIONS

In re Application of :
Kazushige Kanda et al :
Application No. 10/648,853 : DECISION GRANTING PETITION
Filed: August 26, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 81790.0294 :

This is a decision on the petition, filed March 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 21, 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 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\648853.wpd

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Michael G. Cameron
JACKSON WALKER, LLP
2435 N. Central Expressway, Suite 600
Richardson, TX 75080

MAILED

MAY 17 2006

TECHNOLOGY CENTER 2100

In re Application of:
Paul RUDOLF
Application No. 10/648,855
Filed: August 26, 2003
For: ASSOCIATIVE MEMORY DEVICE AND METHOD BASED ON WAVE PROPAGATION

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed 02 June 2004, requesting acceptance of color photographs.

The petition requests that the color photographs be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color photographs in question where the color photographs must either be developed on double weight photographic paper or be permanently mounted on Bristol board, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and stated that three (3) sets of color photographs on double weight photographic paper were submitted herewith. However, the three sets of photographs were not of record, and the specification failed to contain or amend to contain the language "*the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.*"

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DIW Jan-06

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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JAN 23 2006

OFFICE OF PETITIONS

In re Patent No. 6,883,550 :
Issued: 26 April, 2005 :
Application No. 10/648,882 : ON PETITION
Filed: 27 August, 2003 :
Atty Dckt No. 388-031637 :

This is a decision on the petition filed on 28 October, 2005, 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.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00. The balance will be credited to counsel's deposit account, No. 23-0650.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of Rush Sr. et al. :
Application No. 10/648,901 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. 11779-0027-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 non-final Office action mailed February 12, 2007, 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 15, 2007. A Notice of Abandonment was mailed on August 22, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the outstanding non-final Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1744 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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Alexandria, VA 22313-1450
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of Bogdan et al. :
Application No. 10/648,909 :
Filing Date: August 27, 2003 :
Attorney Docket No. 67,108-017 :

Decision on Petition

This is a decision on the petition filed December 11, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a Notice of Allowance on July 23, 2008. The Notice set a time period for reply of three months. The Office did not receive a reply to the Notice of Allowance. As a result, the application became abandoned on October 24, 2008. A Notice of Abandonment was mailed November 19, 2008.

Petitioner contends the Notice of Allowance was never received. In support of the petition, petitioner has submitted:

(A) A statement that a search of the file jacket has been performed,
(B) A copy of all docket actions associated with Attorney Docket No. 67,108-017, and
(C) A docket report for matters being handled by Attorney Gaskey which had due dates between July 1, 2008, and October 31, 2008.

MPEP 711.03(c)(I)(A) states, with emphasis added,

> [A]n 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....
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the *master docket* for the firm. That is, if a three month period for reply

was set in the nonreceived Office action, *a copy of the master docket* report showing all replies docketed for a date three months from the mail date of the nonreceived Office action *must be submitted* as documentary proof of nonreceipt of the Office action. *If no such master docket exists, the practitioner should so state* and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of the relevant portion of a master docket for the entire law firm or provided a statement indicating the law firm does not maintain such a docket. Therefore, the petition cannot be granted.

Any request for reconsideration should include a copy of the relevant part of the firm's master docket *or* state the law firm does not maintain such a docket.

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

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of Bogdan et al. :
Application No. 10/648,909 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. 67,108-017 :

This is a decision on the petition filed April 17, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Allowance on July 23, 2008. The Notice set a time period for reply of three months. The Office did not receive a reply to the Notice of Allowance. As a result, a Notice of Abandonment was mailed November 19, 2008.

Petitioner contends the Notice of Allowance was never received.

The evidence submitted by petitioner is sufficient to prove non-receipt of the Notice of Allowance. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

On December 11, 2008, petitioner submitted Form PTOL-85b for the application, the required issue fee, and the required publication fee. Therefore, the Office does not need to mail a new Notice of Allowance.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and will issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Glenn M. Seager
Crompton, Seager & Tufte, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis MN 55403-2420

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of
Shedlov, et al.
Application No. 10/648,914
Filed: August 28, 2003
Attorney Docket No. 1001.1758101
For: DYNAMIC BUSHING FOR MEDICAL DEVICE TUBING

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 17, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventors, Luke Lundquist and James Hitchcock, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Todd Messal, Patent Counsel for SciMed Life Systems, Inc., establishes that the inventors were successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to multiple requests that they sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3731 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JUNE 7, 2007

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: 10648916 Patent No.: 7148487B2

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

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: _____

_____

_____

_____

_____

DAVID POKTA
SPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2884
Art Unit

Docket No. 1232-5125

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Eiji SAKAMOTO

Group Art Unit: 2881

Patent No.: 7,078,706

Examiner: Bernard SOUW

Issued: July 18, 2006

For: CHAMBER, EXPOSURE APPARATUS, AND DEVICE MANUFACTURING METHOD

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Commissioner for Patents
Office of Patent Publication
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is Form PTO-1050.

☐ All errors were the fault of the Patent and Trademark Office, no fee is required.

☒ Not all errors were the fault of the Patent and Trademark Office, please charge the requisite fee of $100 to Deposit Account No. **13-4500**, Order No. 1232-5125.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 1232-5125.

STATEMENT REGARDING CANCELLATION OF CLAIMS 18-22

Claims 18–22 of U.S. Patent No. 7,148,487 should not have issued with the patent. Patentees submit that this error was incurred through the fault of the USPTO as clearly disclosed by USPTO records. On July 26, 2006, the USPTO mailed a Notice of Allowability (Exhibit 1) indicating that claims 1, 2, 6-15, 18, 19, 21-23, and 28-32 had been allowed. On September 12, 2006, Patentees filed an Amendment Under 37 C.F.R. § 1.312 (Exhibit 2) that canceled claims 23, 28–30 and 32. The Examiner had since renumbered claims 23, 28–30 and 32 as claims 18–22 respectively. *See* Issue Classification Form (attached hereto as Exhibit 3). On November 13, 2006, the USPTO mailed a Response to Rule 312 Communication (Exhibit 4), indicating that the Rule 312 Amendment filed on September 12, 2006 had been entered. Therefore, claims 18–22, which correspond to allowed claims 23, 28–30, and 32, should not have been a part of the issued patent. Patentees are, however, submitting the requisite $100 fee for issuance of a Certificate of Correction because not all errors indicated on the attached PTO-1050 form were the fault of the USPTO.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: May 25, 2007

By: /Ankur Parekh/
Ankur Parekh
Registration No. 56,060

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

PTO/SB/44 (07-03)
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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 NUMBER : 7,148,487

DATED : December 12, 2006

INVENTOR(S) : Takamasa ISHII 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 6, line 31, the first instance of "and" (preceeding "ath") should be changed to --an--; line 34, "colunm" should be changed to --column--.

Column 31, line 6, cancel the text beginning with "18. A radiation image sensing appartus for sensing a" to and including "arranged over said switch element." in column 32, line 36 (i.e., cancel the entire text of claims 18-22).

MAILING ADDRESS OF SENDER: Morgan & Finnegan, LLP
3 World Financial Center
New York, NY 10281-2101

PATENT NO. 7,148,487

No. of additional copies

⇒ 1

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.

Exhibit 1

Notice of Allowability	Application No.	Applicant(s)	
	10/648,916	ISHII ET AL.	
	Examiner	Art Unit	
	Albert J. Gagliardi	2884	

-- 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 *submissions of 30 June 2006*.

2. ☒ The allowed claim(s) is/are *1,2,6-15,18,19,21-23 and 28-32*.

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: _____.

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-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Exhibit 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	ISHII et al.			
Serial No.	:	10/648,916	Art Unit	:	2878
Filed	:	August 27, 2003	Examiner	:	A. Gagliardi
For	:	IMAGE SENSING APPARATUS AND METHOD USING RADIATION			

AMENDMENT UNDER 37 C.F.R. § 1.312

Mail Stop – Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an amendment after notice of allowance under 37 C.F.R. § 1.312. This paper is set forth as follows:

Amendments to the Claims are reflected in the listing of claims, which begin on Page 2 of this paper

Remarks begin on Page 8 of this paper.

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all previous claim listings.

Listing of claims:

1. **(previously presented)**: A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate and, configured to have a first semiconductor conversion element for converting the radiation into an electrical signal and a switch element connected to the first semiconductor conversion element, for switching the electrical signal; and

a second semiconductor conversion element arranged on said substrate, configured to convert the radiation into an electrical signal for detecting a dose of the radiation incident on said conversion section,

wherein each of the first semiconductor conversion element and the second semiconductor conversion element has a semiconductor layer which has originally been formed on a common layer on the substrate, and

wherein said second semiconductor conversion element has a structure of a field effect transistor.

2. **(previously presented)**: The apparatus according to claim 1, characterized in that said switch element has a semiconductor layer thinner than said semiconductor layers of said first and second semiconductor conversion elements.

3. **(canceled)**

4. **(canceled)**

5. **(canceled)**

6. **(original)**: The apparatus according to claim 1, characterized by further comprising a wavelength conversion member which is arranged above said first and second semiconductor conversion elements to convert a wavelength of the radiation that becomes incident.

7. **(original)**: The apparatus according to claim 1, characterized in that said first and second semiconductor conversion elements are stacked above said switch element.

8. **(previously amended)**: The apparatus according to claim 1, characterized by further comprising a bias line which is connected to a first electrode arranged for said first semiconductor conversion element.

9. **(original)**: The apparatus according to claim 1, characterized in that said switch element comprises a thin film transistor.

10. **(original)**: The apparatus according to claim 1, characterized in that said second semiconductor conversion element detects the total dose of the radiation.

11. **(previously presented)**: The apparatus according to claim 8, characterized in that

said first semiconductor conversion element and said switch element are arranged in a matrix on said substrate,

the first electrode is connected to one of a plurality of bias lines arranged in parallel, and

a second electrode is connected to the bias line to which the first electrode of said first semiconductor conversion element adjacent to said second semiconductor conversion element is connected.

12. **(previously presented)**: A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate and, configured to have a first semiconductor conversion element for converting the radiation into an electrical signal and a switch element connected to the first semiconductor conversion element, for switching the electrical signal; and

a second semiconductor conversion element arranged on said substrate, configured to convert the radiation into an electrical signal for detecting a dose of the radiation incident on said conversion section,

wherein:

each of the first semiconductor conversion element and the second semiconductor conversion element has a semiconductor layer which has originally been formed on a common layer on the substrate,

there exist a first pixel which includes said first semiconductor conversion element and said second semiconductor conversion element

and a second pixel which includes said first semiconductor conversion element and no second semiconductor conversion element,

an area of the first pixel is substantially equal to that of the second pixel, and

a light-receiving area of said first semiconductor conversion element in the first pixel is smaller than that of said first semiconductor conversion element in the second pixel.

13. (**original**): The apparatus according to claim 12, characterized in that

a plurality of said second semiconductor conversion elements are placed in said conversion section, and

when an array of the first and second pixels which are arranged in a direction in which the bias line runs is defined as a row, and an array of the first and second pixels which are arranged in a direction perpendicular to the row is defined as a column, at least some of said plurality of second semiconductor conversion elements are formed in a plurality of second pixels which constitutes the same row or column.

14. (**previously presented**): The apparatus according to claim 8, characterized in that said second semiconductor conversion element has a structure of a field effect transistor which uses a second electrode as one of source and drain electrodes.

15. (**original**): The apparatus according to claim 14, characterized in that at least one electrode selected from the group consisting of the other of the source and drain electrode of said second semiconductor conversion element and a control electrode is connected between a plurality of second pixels.

16. **(canceled)**

17. **(canceled)**

18. **(original)**: The apparatus according to claim 8, characterized in that the second electrode has a transparent electrode film which comes into contact with the bias line.

19. **(original)** The apparatus according to claim 8, characterized in that said second semiconductor conversion element has an ohmic contact layer which comes into contact with the bias line as the second electrode.

20. **(canceled)**

21. **(original)**: The apparatus according to claim 8, characterized in that the first electrode has a transparent electrode film which comes into contact with the bias line.

22. **(original)**: The apparatus according to claim 8, characterized in that said first semiconductor conversion element has an ohmic contact layer which comes into contact with the bias line as the first electrode.

23. **(canceled)**

24. **(canceled)**

25. **(canceled)**

26. **(canceled)**

27. **(canceled)**

28. **(canceled)**

29. **(canceled)**

30. **(canceled)**

31. **(previously presented)**: The apparatus according to claim 12, characterized in that said first and second semiconductor conversion elements are arranged over said switch element.

32. **(canceled)**

REMARKS

Applicants thank the Examiner for the telephonic interview on August 30, 2006. In that interview, the undersigned informed the Examiner that (1) during prosecution, Applicants had inadvertently stated that allowed claims 23, 28–30 and 32 read on the elected species when it appears that they in fact do not; and (2) these claims do not depend from an allowed generic claim. The Examiner noted the undersigned's comments. The Examiner stated, however, that he had considered these claims before allowing the application, that he was satisfied with the record as is, and that therefore, he would take no further action with respect to this application. While Applicants appreciate the Examiner's decision, they do not wish to accept claims that they may not be entitled to. Therefore, by this paper, Applicants have canceled claims 23, 28–30 and 32. No other changes are made by this paper.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-5125.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 12, 2006

By: /Ankur Parekh/
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Exhibit 3

Issue Classification	Application/Control No. 10/648,916	Applicant(s)/Patent under Reexamination ISHII ET AL.
	Examiner Albert J. Gagliardi	Art Unit 2884

ISSUE CLASSIFICATION

ORIGINAL		INTERNATIONAL CLASSIFICATION									
CLASS	SUBCLASS	CLAIMED					NON-CLAIMED				
250	370.14	G	1	T	1	/24				/	

CROSS REFERENCES											
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)										
250	370.09					/				/	
257	428					/				/	
						/				/	
						/				/	
						/				/	

(Assistant Examiner) (Date)	Albert Gagliardi 7/20/06	Total Claims Allowed: 22
L. Wise 7/25/06 (Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: 3

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

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1	17	31		61		91		121		151		181
2	2	~~19~~	32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
3	6		36		66		96		126		156		186
4	7		37		67		97		127		157		187
5	8		38		68		98		128		158		188
13	9		39		69		99		129		159		189
14	10		40		70		100		130		160		190
6	11		41		71		101		131		161		191
15	12		42		72		102		132		162		192
16	13		43		73		103		133		163		193
7	14		44		74		104		134		164		194
8	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
9	18		48		78		108		138		168		198
10	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
11	21		51		81		111		141		171		201
12	22		52		82		112		142		172		202
~~18~~	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
~~20~~	28		58		88		118		148		178		208
~~21~~	29		59		89		119		149		179		209
~~22~~	30		60		90		120		150		180		210

Exhibit 4

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,916	08/27/2003	Takamasa Ishii	1232-5125	5081

27123 7590 11/13/2006

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EXAMINER	
GAGLIARDI, ALBERT J	

ART UNIT	PAPER NUMBER
2884	

DATE MAILED: 11/13/2006

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

Response to Rule 312 Communication	Application No.	Applicant(s)	
	10/648,916	ISHII ET AL.	
	Examiner	Art Unit	
	Albert J. Gagliardi	2884	

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

1. ☒ The amendment filed on *12 September 2006* under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☒ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

Amendment directed merely to cancellation of claims. See MPEP 614.19(d)II.

Albert J. Gagliardi
Primary Examiner
Art Unit: 2884

FIG. **12** is an equivalent circuit diagram showing the circuit arrangement of a radiation image sensing apparatus according to a reference example;

FIG. **13** is a layout diagram showing the overall arrangement of the radiation image sensing apparatus according to the reference example;

FIG. **14** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the reference example, which has neither a monitor photoelectric conversion element nor lead interconnections therefor;

FIG. **15** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the reference example, which has a monitor photoelectric conversion element;

FIG. **16** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the reference example, which has lead interconnections for a monitor photoelectric conversion element;

FIG. **17** is a sectional view taken along a line I—I in FIG. **14**;

FIG. **18** is a layout diagram showing the planar structure of a pixel of a radiation image sensing apparatus according to the fifth embodiment of the present invention, which has a monitor photoelectric conversion element;

FIG. **19** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the fifth embodiment, which has lead interconnections for a monitor photoelectric conversion element;

FIG. **20** is a sectional view taken along a line II—II in FIG. **18**;

FIG. **21** is a schematic view showing the layout of a conversion section T and circuit sections around it;

FIGS. **22**A to **22**D are sectional views showing steps in manufacturing the radiation image sensing apparatus according to the fifth embodiment of the present invention;

FIGS. **23**A to **23**C are sectional views showing steps in manufacturing the radiation image sensing apparatus according to the fifth embodiment of the present invention, which show the steps next to those shown in FIGS. **22**A to **22**D;

FIG. **24** is a layout diagram showing the overall arrangement of a radiation image sensing apparatus according to the sixth embodiment of the present invention;

FIG. **25** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the sixth embodiment, which has a monitor photoelectric conversion element;

FIG. **26** is a layout diagram showing the planar structure of a pixel of the radiation image sensing apparatus according to the sixth embodiment, which has lead interconnections for a monitor photoelectric conversion element;

FIG. **27** is a sectional view taken along a line III—III in FIG. **25**;

FIGS. **28**A to **28**D are sectional views showing a method of manufacturing the radiation image sensing apparatus according to the sixth embodiment of the present invention; and

FIGS. **29**A to **29**D are sectional views showing the method of manufacturing the radiation image sensing apparatus according to the sixth embodiment of the present invention, which show the steps next to those shown in FIGS. **28**A to **28**D.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Preferred embodiments of the present invention will now be described in detail with reference to the drawings. It should be noted that the relative arrangement of the components, the numerical expressions and numerical values set forth in these embodiments do not limit the scope of the present invention unless it is specifically stated otherwise.

The embodiments of the present invention will be described below in detail with reference to the accompanying drawings. A reference example will be described for the sake of understanding of the present invention. This reference example is based on the description of U.S. Pat. No. 5,448,613 described above. FIG. **12** is an equivalent circuit diagram showing the circuit arrangement of a radiation image sensing apparatus according to the reference example. FIG. **13** is a layout diagram showing the overall arrangement of the radiation image sensing apparatus according to the reference example. FIG. **12** shows an example in which 4 (rows)×4 (columns) (=a total of 16) pixels are arranged in a pixel area. However, the number of pixels is not limited to this.

In the reference example, a combination of an image sensing photoelectric conversion element (first photoelectric conversion element) and a switching thin film transistor (TFT) or a combination of an image sensing photoelectric conversion element, switching TFT, and monitor photoelectric conversion element (second photoelectric conversion element) for AEC is arranged for each pixel. More specifically, a pixel on and ath row and bth column from the upper side in FIG. **12** has one image sensing photoelectric conversion element Mba and one switching thin film transistor Tba (a, b=1, 2, 3, 4). The pixels on the fourth column and the third and fourth rows respectively have monitor photoelectric conversion elements MA**33** and MA**34**. The pixels on the fourth column and the first and second rows respectively have lead interconnections for the monitor photoelectric conversion elements.

The four image sensing photoelectric conversion elements arranged on the bth column are connected to a common bias line Vsb so that a predetermined bias is applied from a common electrode driver circuit **156**. The gate electrodes (control electrodes) of the four switching TFTs arranged on the ath row are connected to a common gate line Vga so that the gates are ON/OFF-controlled by a gate driver circuit **152**. The source electrodes or drain electrodes of the four switching TFTs arranged on the bth column are connected to a common signal line Sigb. Signal lines Sig**1** to Sig**4** are connected to an image sensing signal processing circuit **151**. Arrays of pixels arranged in the direction in which the bias lines run will be referred to as "columns". Arrays of pixels arranged in a direction (the direction in which gate lines run) perpendicular to the columns will be referred to as "rows".

The monitor photoelectric conversion elements MA**33** and MA**34** are TFT sensors. Their source electrodes are connected to a power supply **153**, their drain electrodes are connected to a monitor signal processing circuit **154**, and their gate electrodes (control electrodes) are connected to the gate driver circuit **152**. In a TFT sensor, electrons and holes generated in a semiconductor layer when visible light becomes incident on it are read in accordance with an electric field between the source and the drain. That is, when a voltage is applied from the power supply **153** to each source electrode to apply a potential between the source and the drain, electrons and holes generated when the light-

version element and the control electrode (the interconnection connected to the electrode) of the switch element may be commonly connected, as described in the fifth and sixth embodiments. According to this arrangement, the interconnection structure becomes simpler. In addition, the light-receiving areas of both of the first conversion element for image reading and the second conversion element for AEC and/or radiation monitor can be increased.

As many apparently widely different embodiments of the present invention can be made without departing from the spirit and scope thereof, it is to be understood that the invention is not limited to the specific embodiments thereof except as defined in the appended claims.

What is claimed is:

1. A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate and, configured to have a first semiconductor conversion element for converting the radiation into an electrical signal and a switch element connected to the first semiconductor conversion element, for switching the electrical signal; and

a second semiconductor conversion element arranged on said substrate, configured to convert the radiation into an electrical signal for detecting a dose of the radiation incident on said conversion section,

wherein each of the first semiconductor conversion element and the second semiconductor conversion element has a semiconductor layer which has originally been formed on a common layer on the substrate, and

wherein said second semiconductor conversion element has a structure of a field effect transistor.

2. The apparatus according to claim **1**, characterized in that said switch element has a semiconductor layer thinner than said semiconductor layers of said first and second semiconductor conversion elements.

3. The apparatus according to claim **1**, characterized by further comprising a wavelength conversion member which is arranged above said first and second semiconductor conversion elements to convert a wavelength of the radiation that becomes incident.

4. The apparatus according to claim **1**, characterized in that said first and second semiconductor conversion elements are stacked above said switch element.

5. The apparatus according to claim **1**, characterized by further comprising a bias line which is connected to a first electrode arranged for said first semiconductor conversion element.

6. The apparatus according to claim **5**, characterized in that

said first semiconductor conversion element and said switch element are arranged in a matrix on said substrate,

the first electrode is connected to one of a plurality of bias lines arranged in parallel, and

a second electrode is connected to the bias line to which the first electrode of said first semiconductor conversion element adjacent to said second semiconductor conversion element is connected.

7. The apparatus according to claim **5**, characterized in that said second semiconductor conversion element has a structure of a field effect transistor which uses a second electrode as one of source and drain electrodes.

8. The apparatus according to claim **7**, characterized in that at least one electrode selected from the group consisting of the other of the source and drain electrode of said second semiconductor conversion element and a control electrode is connected between a plurality of second pixels.

9. The apparatus according to claim **5**, characterized in that the second electrode has a transparent electrode film which comes into contact with the bias line.

10. The apparatus according to claim **5**, characterized in that said second semiconductor conversion element has an ohmic contact layer which comes into contact with the bias line as the second electrode.

11. The apparatus according to claim **5**, characterized in that the first electrode has a transparent electrode film which comes into contact with the bias line.

12. The apparatus according to claim **5**, characterized in that said first semiconductor conversion element has an ohmic contact layer which comes into contact with the bias line as the first electrode.

13. The apparatus according to claim **1**, characterized in that said switch element comprises a thin film transistor.

14. The apparatus according to claim **1**, characterized in that said second semiconductor conversion element detects the total dose of the radiation.

15. A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate and, configured to have a first semiconductor conversion element for converting the radiation into an electrical signal and a switch element connected to the first semiconductor conversion element, for switching the electrical signal; and

a second semiconductor conversion element arranged on said substrate, configured to convert the radiation into an electrical signal for detecting a dose of the radiation incident on said conversion section,

wherein:

each of the first semiconductor conversion element and the second semiconductor conversion element has a semiconductor layer which has originally been formed on a common layer on the substrate,

there exist a first pixel which includes said first semiconductor conversion element and said second semiconductor conversion element and a second pixel which includes said first semiconductor conversion element and no second semiconductor conversion element,

an area of the first pixel is substantially equal to that of the second pixel, and

a light-receiving area of said first semiconductor conversion element in the first pixel is smaller than that of said first semiconductor conversion element in the second pixel.

16. The apparatus according to claim **15**, characterized in that

a plurality of said second semiconductor conversion elements are placed in said conversion section, and

when an array of the first and second pixels which are arranged in a direction in which the bias line runs is defined as a row, and an array of the first and second pixels which are arranged in a direction perpendicular to the row is defined as a column, at least some of said plurality of second semiconductor conversion elements

are formed in a plurality of second pixels which constitutes the same row or column.

17. The apparatus according to claim **15**, characterized in that said first and second semiconductor conversion elements are arranged over said switch element.

18. A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate, configured to have a first photoconductive element, a capacitive element connected to the first photoconductive element, and a switch element connected to the capacitive element; and

a second photoconductive element arranged on said substrate, configured to convert the radiation incident on said conversion section into an electrical signal for detecting a dose of the radiation,

wherein each of the first photoconductive element and the second photoconductive element has a semiconductor layer which has originally been formed on a common layer on the substrate; and

wherein said second photoconductive element has a structure of a field effect transistor.

19. The apparatus according to claim **18**, characterized in that said first and second photoconductive elements are arranged over said switch element.

20. A radiation image sensing apparatus for sensing a radiation by a sensing unit and outputting an electric signal corresponding to the sensed radiation, wherein said sensing unit comprising:

a substrate;

a conversion section arranged on said substrate, configured to have a first photoconductive element, a capacitive element connected to the first photoconductive element, and a switch element connected to the capacitive element; and

a second photoconductive element arranged on said substrate, configured to convert the radiation incident on said conversion section into an electrical signal for detecting a dose of the radiation,

wherein:

each of the first photoconductive element and the second photoconductive element has a semiconductor layer which has originally been formed on a common layer on the substrate,

there exists a first pixel which includes said first photoconductive element and said second photoconductive element and a second pixel which includes said first photoconductive element and no second photoconductive element,

an area of the first pixel is substantially equal to that of the second pixel, and

a light-receiving area of said first photoconductive element in the first pixel is smaller than that of said first photoconductive element in the second pixel.

21. The apparatus according to claim **20**, characterized in that a plurality of said second photoconductive elements are placed in said conversion section, and

when an array of the first and second pixels which are arranged in a direction in which a bias line runs is defined as a row, and an array of the first and second pixels which are arranged in a direction perpendicular to the row is defined as a column, at least some of said plurality of second photoconductive elements are formed in a plurality of second pixels which constitutes the same row or column.

22. The apparatus according to claim **20**, characterized in that said first and second photoconductive elements are arranged over said switch element.

* * * * *

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BATON ROUGE, LA 70809

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Russell Shane Zerangue :
Application No. 10/648,926 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 9573.001 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 23, 2004.

The application became abandoned for failure to pay the issue fee on or before August 3, 2004. Receipt is acknowledged of the requisite issue fee on August 23, 2004.

The petition is GRANTED.

The application is being forwarded to Publishing Division.

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 (703) 305-8283.

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

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Lips et al.	:	
Application No. 10/648,932	:	
Filed: August 27, 2003	:	
Attorney Docket No. 50243-00002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 5, 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 October 1, 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 November 2, 2004. A Notice of Abandonment was mailed May 5, 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 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
Office of the Deputy Commissioner
for Patent Examination Policy

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RALPH E. JOCKE
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Mail Date: 04/21/2010

Applicant	: Richard A. Steinmetz	: DECISION ON REQUEST FOR
Patent Number	: 7577615	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/648,936	: OF WYETH
Filed	: 08/27/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 060705

JUL 29 2005

STRADLING YOCCA CARLSON & RAUTH
SUITE 1600, 660 NEWPORT CENTER DRIVE
P.O. BOX 7680
NEWPORT BEACH CA 92660

In re Application of:	:	
Zaidi *et al.*	:	
Serial No.: 10/648,938	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 26, 2003	:	FROM RECORD
Attorney Docket No.: **14074.0001**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 14, 2005.

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 Monique M. Heyninck, on behalf of herself 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 Nasir J. Zaidi 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: Nasir J. Zaidi
c/o Spectra Cine Research Corporation
3607 W. Magnolia Blvd.
Burbank, CA 91505

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

EDWIN TARVER
16830 VENTURY BLVD.
SUITE 360
ENCINO, CA 91436

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Zaidi et al.	:	
Application No. 10/648,938	:	ON PETITION
Filed: August 26, 2003	:	
Attorney Docket No. 22115-001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW DEPARTMENT
MEADWESTVACO CORPORATION
4850D NORTH CHURCH LANE
SMYRNA GA 30080

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Philippe Lebras :
Application No. 10/648,940 : DECISION GRANTING PETITION
Filed: August 27, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. D-7874 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 18, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 19, 2004.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
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
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LA SALLE STREET, SUITE 1600
CHICAGO, IL 60603-3406

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of :
BAZAN, et al. :
Application No. 10/648,945 : DECISION ON PETITION
Filed: August 26, 2003 : TO WITHDRAW
Attorney Docket No. 86058/8146 : 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, 2006.

The request is **APPROVED**.

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

The request was signed by Scott J. Menghini on behalf of all attorneys of record. 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.

There is an outstanding Office action mailed October 30, 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: **GUILLERMO C. BAZAN**
1068 CHELTENHAM
SANTA BARBARA, CA 93106

cc: **BIOTECHNOLOGY LAW GROUP**
627 N. HIGHWAY 101, SUITE E
SOLANA BEACH, CA 92075

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 29 2009

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 6,946,482	:	
Issue Date: September 20, 2005	:	
Application No. 10/648,946	:	NOTICE
Filed: August 26, 2003	:	
Attorney Docket No.: 026579-0165	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

It is noted that the present communication is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of James T. Jones appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

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 application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

This file is being returned to the Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES T. JONES
PFIZER INC.
PATENT DEPARTMENT
MS 9114
EASTERN POINT ROAD
GROTON, CT 06340

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

Rutan & Tucker, LLP
611 Anton Blvd
Suite 1400
Costa Mesa, CA 92626

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Dusan Miljkovic :
Application No. 10/648,975 : DECISION ON PETITION
Filed: August 26, 2003 : TO WITHDRAW
Attorney Docket No. 100700.0016US1 : 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 5, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***Fish & Associates left this customer number 3/3/07. It was agreed that Mr. Fish or his agents would file new powers of attorney for requested client transfers. Mr. Fish has not filed a new power of attorney or has not changed their correspondence address. Therefore, the attorneys of Rutan & Tucker, LLP request withdrawal as power of attorney.....***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450,
Alexandria, VA 22313-1450
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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE CA 92614-6232

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Miljkovic, Dusan	:	
Application No. 10/648,975	:	ON PETITION
Filed: August 26, 2003	:	
Attorney Docket No. 100700.0016US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), along with the requisite submission under 37 CFR 1.114, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 1616 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of :
Paul D. Ringgenberg et al :
Application No. 10/648,977 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 007420-0112-999 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 8, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2856 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
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 : November 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Paul D. Ringgenberg et al
Application No. : 10/648,977
Filed : August 27, 2003

The above-identified application has been assigned Patent No. 6,964,206 and an issue date of November 15, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. 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 November 15, 2005:

"All reference to Patent No. 6,964,206 to Paul D. Ringgenberg et al of Frisco, TX for SINGLE PHASE SAMPLING APPARATUS AND METHOD appearing in the Official Gazette of November 15, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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

2/26/09

In re Patent No. MCCLUNG, JAMES A.
Issue Date: 02 May 2009
Appl No.: 10/648,981
Filed: August 26, 2003
For: Method and Apparatus for Forming Container End Shells with Reinforcing Rib

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed 17 August 2007 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.

Dana Ross
Supervisory Patent Examiner
Art Unit 3725
Technology Center 3725

ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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: February 23, 2009
TO: Certificates of Correction Branch
FROM: Dana Ross
SPE, Art Unit 3725
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,036,348 as specified on the attached Certificate.

Dana Ross, SPE
Art Unit 3725

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,036,348
Patented: 02 May 2006

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:

James A. McClung
Timothy L. Turner
Gopalaswamy Rajesh
Michael R. Gogola

Dana Ross
Supervisory Patent Examiner
Art Unit 3725

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

Mail Date: 04/21/2010

Applicant	: Jennifer K. Park	: DECISION ON REQUEST FOR
Patent Number	: 7579979	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/648,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 04/21/2010

Applicant	: Mitchell Paul Tasman	: DECISION ON REQUEST FOR
Patent Number	: 7606927	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/649,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 5, 2006

TO SPE OF : ART UNIT 36763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/649,036 Patent No.: 6,952,844

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Patricia L Engle
SPE

3673
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/08

TO SPE OF : ART UNIT 2892

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/649050** Patent No.: **7338856**

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: _____

/Thao X. Le/ — **SPE**

2892 — **Art Unit**

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 13 2005

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of :
Joseph L. Mark et al :
Serial No.: 10/649,068 : DECISION ON
Filed: August 27, 2003 : PETITON TO MAKE SPECIAL
For: Introduction System for Minimally :
Invasive Surgical Instruments :

This is in response to applicants' petition filed April 21, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (571)272-4050 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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

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OCT 16 2006

OFFICE OF PETITIONS

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of :
Joseph L. Mark et al :
Application No. 10/649,068 : DECISION ON PETITION
Filed: August 27, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. 65937-0037 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 8, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed Declaration under 37 C.F.R 1.102(c)(1) and a copy of the applicants driver's license stating that applicant is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3737 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Gideon Gimlan
MacPHERSON KWOK CHEN & HEID LLP
Suite 226
1762 Technology Drive
San Jose CA 95110

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NOV 29 2005

OFFICE OF PETITIONS

Applicant: Sattayapiwat Tang et al.
Appl. No.: 10/649,099
Filing Date: August 26, 2003
Title: METHODS OF REDUCING OR REMOVING MICROMASKING RESIDUE PRIOR TO METAL ETCH USING OXIDE HARDMASK
Attorney Docket No.: M-12977 US
Pub. No.: US 2005/0048788 A1
Pub. Date: March 3, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on April 28, 2005, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material errors in claims 9 and 22 as text in missing in the printed publication.

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

The errors noted by requestor in claims 9 and 22, wherein "n on" is printed as "n on" and "be n" is printed as "be n" are not material Office errors under 37 CFR 1.221, as the Office printed the text as filed. The error in this published application is due to the poor quality of the text in the application. The text of the letters is missing in the application as filed.

[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 should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on April 28, 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.

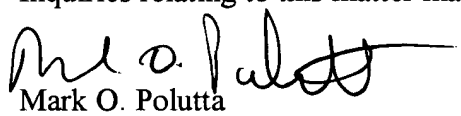
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,099	08/26/2003	Woody K. Sattayapiwat Tang	M-12977 US	4957

32605 7590 01/13/2009

MACPHERSON KWOK CHEN & HEID LLP
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SUITE 400
SAN JOSE, CA 95110

EXAMINER	
DAHIMENE, MAHMOUD	
ART UNIT	**PAPER NUMBER**
1792	

MAIL DATE	DELIVERY MODE
01/13/2009	PAPER

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

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

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Mailed: 1/13/09

In re application of	:	
Tang et al.	:	DECISION ON
Serial No. 10/649,099	:	PETITION
Filed: August 26,2003	:	
For: Methods of Reducing or Removing Micromasking Residue Prior to Metal Etch using Oxide Hardmask	:	

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 for Relief from Examiner Requirements filed on October 21, 2008. In this petition request, applicant makes a request for the withdrawal of the finality and a request for waiver of the requirement for signature by all inventors. The request for TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed August 20, 2008 will be considered under 37 CFR 1.181 and applicants waiver request will not be considered and should be submitted with a separate paper/petition under 37 CFR 1.1.83 along with the fee (see 37 CFR 1.4(c).

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

On August 20, 2008, a final office action was mailed. Applicant requests withdrawal of the finality in view of the fact that a scientific underpinning is not provided in the presentation of the rejection. A scientific underpinning as to why all "residues" including those of Doshita would be seen as being equivalent is not provided in the action of 8/20/08. Thus the finality was premature and should be withdrawn.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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

The examiner did not introduce a new ground of rejection in the office action that was made final.

The petition for withdrawal of finality is **DISMISSED.**

Jacqueline M. Stone

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

Gideon Gimlan
MACPHERSON KWOK CHEN & HEID LLP
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TECHNOLOGY CENTER 2100

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SAN FRANCISCO CA 94111-3834

In re Application of: SHUJI FUJIMOTO
Application No. 10/649,100
Filed: August 26, 2003
For: METHODS FOR CONTROLLING STORAGE DEVICES CONTROLLING APPARATUSES

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

This is a decision on the petition filed April 07, 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 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

RP

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Technology Center 2100

In re Application of: Saika et al.
Application No. 10/649,124
Filed: August 26, 2003
For: METHOD AND PROGRAM FOR STORING PERFORMANCE DATA, AND SYSTEM USING THE SAME

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

This is a response to the petition filed April 14, 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, 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 April 14, 2005 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 applicant should discuss each independent claim in view of the references cited in order to submit a detailed discussion which points out with particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references. However, the features "modification of performance data depending on the detected free disk space" or the feature of having "the amount of the free space relative to a threshold amount determine how the performance data is handled" is not set forth in (for example) claim 1. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable 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.

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

5/31/05

JC

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Technology Center 2100

In re Application of:
NOBUYUKI SAIKA, et al.
Application No. 10/649,124
Filed: August 26, 2003
For: METHOD AND PROGRAM FOR STORING PERFORMANCE DATA, AND SYSTEM USING THE SAME

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

This is a decision on the Renewed Petition filed July 25, 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.

Applicant's submission of July 25, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application 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.

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

RP

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OFFICE OF PETITIONS

In re Application of :

BARTHELL, Edward N. :
Application No. 10/649,127 : DECISION ON PETITION
Filed: August 27, 2003 : TO WITHDRAW
Attorney Docket No. **4003-008** : 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 and re-submitted on October 04, 2007.

The request is **APPROVED**.

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

The request was signed by JiNan Glasgow on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 24, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWARD BARTHELL**
125 EAST BARKWOOD COURT
MEQUON, WI 53092

cc: **FOLEY & LARDNER**
150 EAST GILMAN STREET
VEREX PLAZA
MADISON, WI 53703

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Edward Barthell
125 East Barkwood Court
Mequon, WI 53092

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NOV 14 2008

In re Application of :
Edward Barthell :
Application No. 10/649,127 : DECISION ON PETITION
Filed: August 27, 2003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 24, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 405, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 770; 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.

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.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU3626for 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: Timothy E. Newholm
Boyle Fredrickson S.C.
840 North Plankinton Avenue
Milwaukee, Wisconsin 53203

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OFFICE OF PETITIONS

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In re Application of :
Barthell :
Application No. 10/649,127 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 144.005 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 4, 2010.

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 November 26, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on February 27, 2009. The Office mailed a Notice of Abandonment on June 24, 2009.

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

The application is being forwarded to Group Art Unit 3686 for consideration of the Amendment, filed January 4, 2010.

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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ECOLAB INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN, MN 55121

Mail Date: 04/20/2010

Applicant	: Harald Post	: DECISION ON REQUEST FOR
Patent Number	: 7610640	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/649,152	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **719** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 19 2006

TECHNOLOGY CENTER 2100

In re Application of: SAIKA, NOBUYUKI
Application No. 10/649,171
Filed: 26 August 2003
For: STORAGE DEVICE MANAGING SYSTEM, METHOD AND PROGRAM

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

This is a decision on the petition filed 11 April 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 **DISMISSED**.

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

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

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

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

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

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

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

In this case, the petition fails to adequately meet the requirement (e) as set forth above. Responsive to requirement (e), applicant must provide 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 are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

The petition filed 11 April 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, 7 and 13, each of 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.

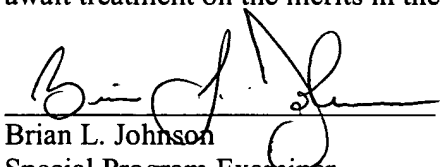
Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's cursory treatment of the references does not detail, with the particularity called for under 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. Likewise, the petition must 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."

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

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Technology Center 2100

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

In re Application of: Saika NOBUYUKI
Application No. 10/649,171
Filed: August 26, 2003
For: STORAGE DEVICE MANAGING SYSTEM, METHOD AND PROGRAM

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 May 24, 2006 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 April 11, 2005, and dismissed on April 19, 2006.

The Petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

The renewed petition filed May 24, 2006 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), for applicant's convenience, note 37 CFR § 1.111 (b) and (c) reproduced in part below:

(b) The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, **patentable over any applied references. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.**
(c) .... **the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.** The applicant or patent owner must also show how the amendments avoid such references or objections.

In the petition filed May 24, 2006, Petitioner 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" that are "deemed to be most closely related to the subject matter encompassed by the claims." [emphasis added].

The instant application currently contains three independent claims, i.e. 1, 7 and 13. However, the instant petition fails to accurately identify and address patentable novelty and non-obviousness of independent claims 7 and 13. Specifically, contrary to Petitioner's remarks, the recitations of "**in a storage system**" and "**a storage system is configured** ... **in response to** a **received** proxy request", does not appear in either pending claim 7 or 13, as indicated on pages 2-5 of the instant petition. Specific reference is made to the terse statements that proceed the discussion of the references (bridging pages 2-3) that ".... Independent claims 7 and 13 recite similar features" and the follow statement found after the discussion of each reference (found on pages 3-5) of "...as recited in the independent claims".

Therefore, the detailed discussion of patentability, in the instant petition, is not applicable to claims 7 and 13.

Accordingly, the Petition to Make Special **DENIED** since all of the requirements for special status under MPEP § 708.02(VIII) have NOT been met. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100, W 2110
Computer Architecture, Software and Information Security
571-272-3595

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAY 12 2005

Technology Center 2100

In re Application of: Saika
Application No. 10/649,172
Filed: August 26, 2003
For: SYSTEM AND METHOD FOR MANAGING A STORAGE DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 25 February 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §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.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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THE MCINTOSH GROUP
8000 E. Prentice Ave.
Suite B-6
Englewood, CO 80111

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Technology Center 2100

In re Application of:
James David MAIN
Application No.: 10/649,185
Filed: August 27, 2003
For: METHOD AND APPARATUS TO MAINTAIN WIRELESS NETWORK COMMUNICATIONS THROUGH A FIREWALL

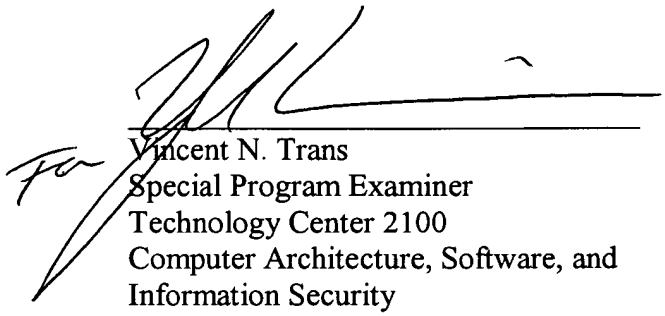
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 13, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

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



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

cc: Howard Brant
CompassCom, Inc.
6770 S. Dawson Circle, Unit 1A
Centennial, CO 80112-4224

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Patricia A. Kammerer, Esq.
HOWREY SIMON ARNOLD & WHITE, LLP
750 Bering Drive
Houston, TX 77057-2198

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Bing Lu et. al. :
Application No. 10/649,206 : NOTICE
Filed: August 27, 2003 :
Attorney Docket No. FPC-104C :

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**.

The Office acknowledges receipt of $1,330 for the issue fee, $300 for the publication fee, and $3.00 for one (1) advance soft copy, all filed on September 10, 2004.

This file is being referred to the Office of Publications for further processing.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

In re Patent No. 6,867,720

Issue Date: March 15, 2005

Application No. 10/649,209

Filed: August 27, 2003

Attorney Docket No. **1693-90485**

ON PETITION

This is a decision on the petition filed August 22, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The fee for the Certificate of Correction in the amount of $100.00 will be charged to deposit account 23-0920.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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425 POST ROAD
FAIRFIELD, CT 06824

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In re Application of Kelley et al. :
Application No. 10/649,211 : Decision on Petition
Filing Date: August 27, 2004 :
Attorney Docket No. 860-011447-US :

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This is a decision in response to the "Petition to Reset Reply Date" filed August 9, 2004.

The petition is **granted** to the extent indicated below.

Facts:

A Notice to File Missing Parts was mailed April 7, 2004. The Notice required the submission of an executed oath/declaration and $130.

Petitioner has established non-receipt of the original Notice.

On or about August 2, 2004, petitioner checked into the status of the application and discovered the existence of the Notice to File Missing Parts. A copy of the Notice was sent to petitioner by facsimile transmission on August 5, 2004.

The instant petition was filed August 9, 2004 (Certificate of Mailing date of August 6, 2004).

The petition requests the period to reply to the Notice to File Missing Parts be reset to begin as of August 5, 2004.

Discussion:

A Notice is invalid unless mailed and received at the address of record. Petitioner has shown the *mailed* Notice was never received. The Notice mailed April 7, 2004, is **vacated and withdrawn**.

The executed declaration and $130 filed with the petition are timely.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination 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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of	:	
Hironori Kobayashi	:	
Application No. 10/649212	:	
Filing or 371(c) Date: 08/27/2003	:	ON PETITION
Attorney Docket Number:	:	
CU-5984	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 27, 2005. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 28, 2005. A Notice of Abandonment was mailed May 17, 2006.

Applicant files the present petition and includes an Amendment in response to the Office action. 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 application is being referred to Technology Center Art Unit 1756 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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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 04/21/2010

Applicant	: Larry Kirn	: DECISION ON REQUEST FOR
Patent Number	: 7626451	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/649,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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OFFICE OF PETITIONS

Edward & Angel LLP
P.O. Box 55874
Boston, MA 02205

In re Application of
Fukumitsu et al.
Application No. 10/649,228
Filed: August 26, 2003
Attorney Docket 58807-RCE (47793)

: DECISION GRANTING PTA

This decision is in response to applicants' PETITION FOR REVIEW OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 AND 1.703(a)(1) timely[1] filed on October12, 2006. The applicants notes that the determination at the time of the mailing on the notice of allowance is 230 days not 173 days.

Applicants' petition is GRANTED. The USPTO will adjust the PAIR calculation at the time of the mailing of the notice of allowance to reflect a determination of 230 days.

Applicants assert that the USPTO erred in awarding only 204 days of PTA for failing to meet the requirements of 37 CFR 1.702(a)(1). Applicants assert that the correct amount of PTA under this provision is 261 days. Applicants assert that the filing date is August 26, 2003 not October 2003. In addition, the Applicants do not contest the reduction of 31 days under 37 CFR 1.704(b).

Patentees arguments are persuasive. The USPTO finds that the proper filing date of the application was August 26, 2003. Accordingly, the USPTO should have assessed a delay of 261 days for violation of 37 CFR 1.702(a)(1). The Office notes that although an notice of missing parts was mailed to applicants, the filing date of the application was assigned August 26, 2003. Accordingly, the overall determination at the time of the mailing of the notice of allowance is 230 (261-31=230) days.

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The USPTO notes that any applicant delays pursuant to 37 CFR 1.704(c)(10) or USPTO delays pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be determined at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicant approximately two and 1/2 weeks prior to issuance of the patent.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

---

[1]Issue fee paid on October 12, 2006.

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

cc: ADJUSTED PAIR CALCULATION

Day : Thursday
Date: 1/25/2007

PALM INTRANET

Time: 13:44:59

PTA Calculations for Application: 10/649228			
Application Filing Date:	08/26/2003	PTO Delay (PTO):	204
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	230
PTO Delay Adjustment:	57		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	01/25/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	57		
52	07/12/2006	MAIL NOTICE OF ALLOWANCE			
51	07/12/2006	MAIL EXAMINER'S AMENDMENT			
50	07/10/2006	ISSUE REVISION COMPLETED			
49	07/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	07/10/2006	EXAMINER'S AMENDMENT COMMUNICATION			
47	07/10/2006	NOTICE OF ALLOWABILITY			
46	05/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	05/16/2006	REFERENCE CAPTURE ON IDS			
44	05/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	05/25/2006	DATE FORWARDED TO EXAMINER			
42	05/16/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	05/25/2006	DATE FORWARDED TO EXAMINER			
40	05/16/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
39	05/25/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	05/16/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	02/16/2006	MAIL FINAL REJECTION (PTOL - 326)			
36	02/13/2006	FINAL REJECTION			
35	12/10/2005	PARALEGAL TD ACCEPTED			
34	11/14/2005	TERMINAL DISCLAIMER FILED			
33	11/14/2005	NEW OR ADDITIONAL DRAWING FILED			
32	12/10/2005	DATE FORWARDED TO EXAMINER			

31	11/14/2005	RESPONSE AFTER NON-FINAL ACTION		31	28
30	11/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	07/14/2005	MAIL NON-FINAL REJECTION	204		-1
27	07/11/2005	NON-FINAL REJECTION			
26	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	06/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	06/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	06/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	03/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	04/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	01/16/2004	APPLICATION RETURN FROM OIPE			
18	01/16/2004	APPLICATION RETURN TO OIPE			
17	01/16/2004	APPLICATION DISPATCHED FROM OIPE			
16	01/16/2004	APPLICATION IS NOW COMPLETE			
15	12/09/2003	ADDITIONAL APPLICATION FILING FEES			
14	12/09/2003	AN ASSERTION THAT THE NATURE OF THE LEGAL ENTITIES HAVING PROPERTY RIGHTS TO THE PATENT AUTHORIZES T			
13	12/09/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	11/20/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
11	10/22/2003	ADDITIONAL APPLICATION FILING FEES			
10	10/22/2003	REPLACEMENT DRAWINGS (CHANGES THE FILING DATE)			
9	11/18/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/08/2003	CASE CLASSIFIED BY L&R			
3	11/08/2003	CLEARED BY OIPE CSR			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of :
Edward P. Ingenito :
Application No. 10/649,232 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 10991-002004 :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 6, 2006.

The application was held abandoned for failure to file a reply to the non-final Office action mailed January 25, 2006. A Notice of Abandonment was mailed on August 4, 2006.

A review of the file reveals that applicant did file a reply on July 31, 2006, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated July 25, 2006. In view thereof, it is obvious that the Notice of Abandonment was mailed in error.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The Notice of Abandonment is **VACATED**.

The matter is being forwarded to Group Art Unit 3763 for consideration of the Amendment filed July 31, 2006 (made timely by obtaining a three month extension of time and including a Certificate of Mailing dated July 25, 2006).

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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APR 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Dombroski et al.	:	
Application No. 10/649,236	:	ON PETITION
Filed: August 27, 2003	:	
Attorney Docket No. PC023251A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 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 Request for Continued Examination (RCE) 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

PHARMACIA CORPORATION
CORPORATE PATENT DEPARTMENT
PO BOX 1027
CHESTERFIELD, MO 63006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Anand G. Dabak, et al.	:	
Application No. 10/649,260	:	DECISION ON PETITION
Filed: August 25, 2003	:	
Attorney Docket No. TI-35237	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2009, 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 November 26, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 27, 2009. The Notice of Abandonment was mailed November 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and amendment after appeal; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2475 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Xiaowei Deng :
Application No. 10/649,266 :
Filed: August 27, 2003 :
Attorney Docket No. TI-35610 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 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 above-identified application became abandoned on July 5, 2005.

The instant 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of April 4, 2005 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

Copied from 10469266 on 03/27/2006

grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center AU 2827.

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

Wan Laymon
Petitions Examiner
Office of Petitions

cc: THOMAS G. ESCHWEILER
NATIONAL CITY BANK BUILDING
629 EUCLID AVENUE, SUITE 1210
CLEVELAND, OH 44114

Copied from 10469266 on 03/27/2006

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Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Guo Liu, et al.	:	
Application No. 10/649,282	:	ON PETITION
Filed: August 27, 2003	:	
Attorney Docket No. SMBZ 2 01002	:	

This is a decision on the petition under 37 CFR 1.182, filed June 16, 2005, to change the name of one of the inventors.

The petition is **GRANTED**.

The name of the fourth inventor has been changed from Jim Stiles to **James Alexander Stiles**. A corrected filing receipt reflecting the change accompanies this decision.

The application file is being referred to Technology Center 1700.

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

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/9/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/649,291 Patent No.: 6,856,419

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should Item (45) * terminal disclaimer be Removed from the patent?

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

Thank You For Your Assistance

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

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

Comments: OK to approve Title as specified.

/Twyler L. Haskins/

SPE **Art Unit** **2625**

Johnson, Rochaun

From: Haskins, Twyler
Sent: Monday, March 30, 2009 10:15 AM
To: Johnson, Rochaun
Cc: Coles, Edward
Subject: FW: Overdue Certificate of Correction SPE's Response 10/30/06 for IFW docs (7) for 10/649,291Ye, Lin
Importance: High
Attachments: Not read: RE: Please review 'SPE's Response 3 01-13-2006 for IFW docs (5) (3)'; SPE's Reponse 3 01-13-2006 for IFW docs (7).doc

Approved.

Thanks

From: Johnson, Rochaun
Sent: Monday, March 30, 2009 10:09 AM
To: Haskins, Twyler
Subject: FW: Overdue Certificate of Correction SPE's Response 10/30/06 for IFW docs (7) for 10/649,291Ye, Lin
Importance: High

Thank you for your help!

RoChaun

703 308-9390 ext6 119

From: Ometz, David
Sent: Monday, March 09, 2009 11:16 AM
To: Coles, Edward; Moore, David; Zimmerman, Mark; Poon, King Y.; Haskins, Twyler
Cc: Ye, Lin; Tran, Sinh; Johnson, Rochaun
Subject: FW: SPE's Response 3 01-13-2006 for IFW docs (7) for 10/649,291

2625 SPES - please see below.

From: Johnson, Rochaun
Sent: Monday, March 09, 2009 8:18 AM
To: Ye, Lin; Ometz, David; Tran, Sinh
Subject: SPE's Response 3 01-13-2006 for IFW docs (7) for 10/649,291

Good morning,

Could you or direct this e-mail to the correct person who is handling Author Evans cases to :

Please check e-dan and respond to the outstanding request for C of C dated **8/10/05**, to delete the terminal disclaimer dated **03/04/05.** Please respond by approving or denying the PTOL 306 dated **9/30/08** (or to the one attached) with your signature, and have the PTOL 306

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KALAMAZOO, MI 49001

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OFFICE OF PETITIONS

In re Application of
Jeffrey W. Corbett, et al.
Application No. 10/649,299
Filed: August 27, 2003
Attorney Docket No. 01320.US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 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 Restriction Requirement, mailed July 1, 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 application became abandoned on August 2, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received July 31, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KRISTINA L. KONSTAS
150 EAST 42ND STREET
NEW YORK, NY 10017

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CHUN-POK LEUNG
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8th FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAILED

JAN 1 8 2005

Technology Center 2100

In re Application of: Honda, et al.
Application No. 10/649,307
Filed: August 26, 2003
For: METHOD AND SYSTEM FOR JOB MANAGEMENT

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

This is a response to the petition filed October 18, 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 f the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **petitioner will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed October 18, 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 reference 6, which merely paraphrases the title and abstract) provided in each reference accompanied by a single statement that all the references do not include various listed features of the claimed invention. The "discussion of the references" (page 4 of the petition) merely recites all the claim limitations of the independent claims. 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: 1/14/2005

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Technology Center 2100

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

In re Application of: HONDA, et al.
Application No. 10/649,307
Filed: August 26, 2003
For: METHOD AND SYSTEM FOR JOB MANAGEMENT

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

This is a response to the Request for Renewed Petition filed February 24, 2005, on the Petition to make Special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on October 18, 2004 and dismissed on January 18, 2005.

The Reconsideration of Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

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

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

Brian L. Johnson 3/17/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 03/15/05

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith S. Boyce, et al.	:	
Application No. 10/649,323	:	NOTICE
Filed: August 27, 2003	:	
Attorney Docket No. 16585.10.5.1		

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/28/2006

TO SPE OF : ART UNIT 3600 (3671)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,059,109

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 – 2900 South Tower ste.9A43A
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.

***Ok to add foreign patent to references as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Part I is denied. The actual patent no. of the foreign reference is JP 2000-351330. However, the IDS and the COCIN list patent app. no. JP 2000-315330. Part II is approved.

SPE

3671
Art Unit

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Cooley Godward Kronish, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Simon John Knee et al. :
Application No. 10/649,364 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. ASTU-003/01US :
017622-2013

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 21, 2008. 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). A two month extension of time was obtained. Accordingly, the date of abandonment of this application is December 22, 2008. A Notice of Abandonment was mailed on March 13, 2009. Replies were received on August 25, 2008, October 7, 2008 and December 2, 2008 but were not proper since it did put the application in condition for allowance.

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 (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2443 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 6, 2007 ,

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction for Appl. No.10/649375 patent no. 7040716

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

[signature]

SPE

3683

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Joerg Beringer :
Application Number: 10/649377 : ON PETITION
Filing Date: 08/27/2003 :
Attorney Docket Number: :
09282.0007.00000 :

This is a decision on the "PETITION TO RE-MAIL FINAL OFFICE ACTION AND RESTART PERIOD FOR RESPONSE," filed on October 2, 2008, which is treated as a petition under 37 CFR 1.181 to consider a reply as timely filed.

On April 30, 2008, a final Office action was mailed, setting a three (3)-month shortened statutory period for reply.

On October 2, 2008, the subject petition was filed.

On October 29, 2008 a Notice of Appeal and three (3) month extension of time were filed.

Petitioner asserts that the final Office action was never received. In support, petitioner has supplied a copy of the law firm's docket record and mail log. Petitioner has also provided a statement by registered patent practitioner C. Gregory Gramenopolous, stating that a USPTO mail search of the undersigned firm's mail log shows no entry that the Final Office Action was received. The mail log and docket report are referenced in the practitioner's statement.

A review of the record reveals no irregularity in the mailing of the final Office action mailed on April 30, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office action mailed on April 30, 2008, was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action mailed on April 30, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted

> as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> (emphasis added)

Accordingly, the showing of record is that the final Office action mailed on April 30, 2008, was never received. Therefore, the delay in filing a reply to the final Office action mailed on April 30, 2008, will be excused.

In view of the failure to receive the final Office action mailed on April 30, 2008, no extension of time is required for a timely reply. The extension of time fee will be credited to counsel's deposit account.

Receipt of the Notice of Appeal filed in response to the final Office action mailed on April 30, 2008 is acknowledged. As the Notice of Appeal constitutes a reply to the final Office action, it is unnecessary to remail the aforementioned Office action. **Therefore, the Office reminds applicant that the two (2)-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee required by law, began to run on October 29, 2008, the date of filing the Notice of Appeal.** The Office notes that "37 CFR 41.37(a) does not permit the brief to be filed within the time allowed for reply to the action from which the appeal was taken even if such time is later." *MPEP 1205.* "Once appellant timely files a notice of appeal in compliance with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." *Id.* **Therefore, applicant is required to submit an appeal brief on or before May 29, 2009, accompanied by a request for an extension of time for response within the fifth month and fee to avoid abandonment of this application.** In other words, applicant, himself, started the running of the two-month extendable period to file an appeal brief based upon the date applicant originally submitted the Notice of Appeal with the USPTO.

The petition is **granted** to the extent indicate above.

The application is being referred to Technology Center Art Unit 2445 for further processing.

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

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.
10/649,381	08/27/2003	Michael K. Aghajanian	M-104-D	4609

7590 10/07/2004

Jeffrey R. Ramberg
M Cubed Technologies, Inc.
1 Tralee Industrial Park
Newark, DE 19711

EXAMINER	
JOHNSON, STEPHEN	

ART UNIT	PAPER NUMBER
3641	

DATE MAILED: 10/07/2004

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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In re Application of AGHAJANIAN ET AL.
Appl. No.: 10/649,381
Filed: August 27, 2003
For:
CERAMIC-RICH COMPOSITE ARMOR, AND METHODS FOR MAKING SAME

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed 03/15/2004 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that references to U.S. applications 10/217,312 and 60/524,916 on a form 1449, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

MICHAEL J. [illegible]
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 24 2005

TECHNOLOGY CENTER

Jeffrey R. Ramberg
M Cubed Technologies, Inc.
1 Tralee Industrial Park
Newark DE 19711

In re Application of :
AGHAJANIAN et al. : DECISION ON PETITION
Application No. 10/649,381 : UNDER 37 CFR §1.59
Filed: August 27, 2003 :
For: CERAMIC-RICH COMPOSITE ARMOR, AND METHODS FOR MAKING SAME

This is a decision on the petition under 37 CFR 1.59(b), filed November 7, 2002, to expunge information from the above identified application.

The petition is **GRANTED-IN-PART**.

Petitioner requests that a document entitled Supplemental Information Disclosure Statement Under 37 CFR 1.56 and MPEP 742 and 724.02, filed March 15, 2004, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The Supplemental Information Disclosure Statement includes application serial number 10/271,312 that has been published as US20030092558A1 on May 15, 2003. The petition is Denied with respect to this application in that the applicant cannot show that this information has not been made public. This application number has been added to form 892 as being considered by the examiner.

The remaining information in question has been determined by the undersigned to not be material to the examination of the instant application.

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

The expunged material cannot be returned since it is now part of an electronic file wrapper. The expunged material has been "closed", however, so that it is no longer viewable in the electronic file wrapper.

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

Any questions regarding this letter should be directed to Michael Carone at (703) 306-4198.

Donald T. Hajec, Director
Technology Center 3600
(703) 306-4180

mc/sm: 1/13/05

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of
DeFrancesco et al.
Application No. 10/649,397
Filed: August 27, 2003
Attorney Docket No. DLT-0001DIV1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 1, 2009, 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 and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3696 for appropriate action on the amendment filed July 1, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/649,397	08/27/2003	3696	602	DLT-001DIV1	24	6

CONFIRMATION NO. 6100

CORRECTED FILING RECEIPT

51414
GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

OC00000003745147

Date Mailed: 08/21/2009

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)

James DeFrancesco, Fort Lauderdale, FL;
Scott Freiman, Irvington, NY;
Arvind Agrawal, Gaithersburg, MD;

Power of Attorney: The patent practitioners associated with Customer Number 051414

Domestic Priority data as claimed by applicant

This application is a DIV of 10/441,534 05/20/2003
which is a DIV of 09/107,321 06/30/1998 PAT 6,587,841
which is a DIV of 08/526,776 09/12/1995 PAT 5,878,403
This application 10/649,397
is a CIP of 08/922,462 09/03/1997 PAT 7,181,427
which is a CIP of 08/526,776 09/12/1995 PAT 5,878,403

Foreign Applications

If Required, Foreign Filing License Granted: 11/24/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/649,397**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Computer implemented automated credit application analysis and decision routing system

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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John C. McMahon
PO Box 30069
Kansas City, MO 64112

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Roger P. Jackson :
Application No. 10/649,412 : DECISION ON PETITION
Filing Date: 08/27/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10,321 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 15, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed Application Data Sheet ("ADS").

The petition is **DISMISSED.**

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

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

The petition does not comply with item **(1).**

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

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the ADS is not acceptable as drafted since copendency does not exist between the above-identified application, and Application No. 09/729,600, for which the benefit is sought. Application No. 09/729,600, filed December 4, 2000, issued as U.S. Patent No. 6,440,170 on August 27, 2002. The above-identified application was filed on August 27, 2003. The statute at 35 U.S.C. § 120 permits a continuing application to claim the benefit of the filing date of a copending, previously filed, parent application provided there is inventorship overlap between the continuing application and the parent application. Here, the application for which the benefit is sought, 09/729,600, issued as a patent one year before the above-identified application was filed. As such, there is no copendency between the applications. Further, because Application No. 09/729,600 was filed subsequent to Application No. 09/644,720, it would be improper for Application No. 09/644,720 to now claim benefit of priority to Application No. 09/729,600.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with 35 U.S.C. § 120; 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application(s) to this application, are required.

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

By mail:
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
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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 Derek Woods at (571) 272-3232.

Christina Tartara Donnell

Christina Tartara Donnell
Senior Petitions Attorney
Office of Petitions

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John C. McMahon
PO Box 30069
Kansas City, MO 64112

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Roger P. Jackson :
Application No. 10/649,412 : DECISION ON PETITION
Filing Date: 08/27/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10,321 :

This is a decision on the Request for Reconsideration of Petition for Modification of Claim of Priority, filed January 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed Amendment. The petition is properly treated as a petition under 37 CFR 1.78(a)(3)

The petition is **DISMISSED.**

Background

Applicant filed a petition to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application Nos. 09/729,600, filed December 4, 2000, which issued as U.S. Patent No. 6,440,170 on August 27, 2002, and 09/644,722, filed August 23, 2000, which issued as U.S. Patent No. 6,666,888 on December 23, 2003, said claim was set forth in an Application Data Sheet ("ADS").

The petition was dismissed in a Decision mailed December 8, 2006. The Decision dismissing the petition informed Applicant that 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain... the relationship between the applications [to wit] - whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

The Decision also informed Applicant that copendency does not exist between the above-identified application, and Application No. 09/729,600, for which the benefit is sought, because Application No. 09/729,600, filed December 4, 2000, issued as U.S. Patent No. 6,440,170 on August 27, 2002, which is one (1) year before the above-identified application was filed.

The present renewed petition

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

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

The petition does not comply with item **(1).**

The Amendment has been corrected to properly state the relationship of the applications, however, similar to the ADS filed with the June 6, 2005 petition, the amendment is still not acceptable as drafted since copendency does not exist between the above-identified application, and Application No. 09/729,600, for which the benefit is sought. Application No. 09/729,600, filed December 4, 2000, issued as U.S. Patent No. 6,440,170 on August 27, 2002, which is one (1) year before the above-identified application was filed. The above-identified application was filed on August 27, 2003. The statute at 35 U.S.C. § 120 permits a continuing application to claim the benefit of the filing date of a copending, previously filed, parent application provided there is inventorship overlap between the continuing application and the parent application. Here, the application for which the benefit is sought, 09/729,600, issued as a patent one year before the above-identified application was filed. As such, there is no copendency between the applications.

Before the petition under 37 CFR § 1.78(a)(3) 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 and 37 CFR 1.76(b)(5)) to correct the above matters is required. Applicant is also reminded that, if an amendment to the specification, or an application data sheet (ADS), is submitted in an application under final rejection, the amendment or ADS must be in compliance with 37 CFR 1.116. The amendment or ADS filed in an application under final rejection will not be entered as a matter of right. See MPEP 714.12 and 714.13. Therefore, applicants should consider filing a request for continued examination (RCE) (including fee and submission) under 37 CFR 1.114 with the petition to accept an unintentionally delayed benefit claim, the surcharge, and an amendment that adds the proper reference to the first sentence of the specification or an ADS.

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

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Any questions concerning this matter may be directed to Senior Petitions Attorney Derek Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
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John C. McMahon
PO Box 30069
Kansas City, MO 64112

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DEC 1 1 2007

OFFICE OF PETITIONS

In re Application of :
Roger P. Jackson :
Application No. 10/649,412 : DECISION ON PETITION
Filing Date: 08/27/2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10,321 :

This is a decision on the Request for Reconsideration of Petition for Modification of Claim of Priority, filed November 5, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed Amendment. The petition is properly treated as a petition under 37 CFR 1.78(a)(3)

The petition is **DISMISSED.**

Background

Applicant filed a petition to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application Nos. 09/729,600, filed December 4, 2000, which issued as U.S. Patent No. 6,440,170 on August 27, 2002, and 09/644,722, filed August 23, 2000, which issued as U.S. Patent No. 6,666,888 on December 23, 2003, said claim was set forth in an Application Data Sheet ("ADS").

The petition was dismissed in a Decision mailed December 8, 2006. The Decision dismissing the petition informed Applicant that 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain... the relationship between the applications [to wit] - whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

The Decision also informed Applicant that copendency does not exist between the above-identified application, and Application No. 09/729,600, for which the benefit is sought, because Application No. 09/729,600, filed December 4, 2000, issued as U.S. Patent No. 6,440,170 on August 27, 2002, which is one (1) year before the above-identified application was filed.

The January 18, 2007 renewed petition

Applicant filed a renewed petition on January 18, 2007, and included an Amendment that had been corrected to properly state the relationship of the applications, however, similar to the ADS filed with the June 6, 2005 petition, the amendment was still not acceptable as drafted since copendency does not exist between the above-identified application, and Application No. 09/729,600, for which the benefit was sought. Application No. 09/729,600, filed December 4, 2000, issued as U.S. Patent No. 6,440,170 on August 27, 2002, which is one (1) year before the above-identified application was filed. The above-identified application was filed on August 27, 2003. The statute at 35 U.S.C. § 120 permits a continuing application to claim the benefit of the filing date of a copending, previously filed, parent application provided there is inventorship overlap between the continuing application and the parent application. With this petition, the application for which the benefit is sought, 09/729,600, issued as a patent one year before the above-identified application was filed. As such, there is no copendency between the applications.

The petition was dismissed in a Decision mailed March 19, 2007. Applicant was informed that, before the petition under 37 CFR § 1.78(a)(3) could be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters was required. Applicant was also reminded that, if an amendment to the specification, or an application data sheet (ADS), is submitted in an application under final rejection, the amendment or ADS must be in compliance with 37 CFR 1.116. The amendment or ADS filed in an application under final rejection will not be entered as a matter of right. See MPEP 714.12 and 714.13. Therefore, applicants should consider filing a request for continued examination (RCE) (including fee and submission) under 37 CFR 1.114 with the petition to accept an unintentionally delayed benefit claim, the surcharge, and an amendment that adds the proper reference to the first sentence of the specification or an ADS.

The present renewed petition

Applicant files the present renewed petition and asserts that the previous claim of benefit of priority under 35 U.S.C. 120 was in error.. Applicant petitions for the benefit of corrected priority from U.S. Serial Number 09/644,722, now U.S. Patent No. 6,666,888. Applicant includes an amendment to the specification.

Applicable Law, Rules and MPEP

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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Director for Patents
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ATTN: Office of Petitions

Any questions concerning this matter may be directed to attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

OIPE IAP6
NOV 05 2007
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Renewed petition and Amended Spec

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION FOR MODIFICATION OF CLAIM OF PRIORITY

Applicant: Roger P. Jackson

Serial No.: 10/649,412 Date: October 31, 2007

Filed: August 27, 2003 Group Art Unit: 3733

Exam: Richard R. Shaffer

For: THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE

- -

Kansas City, Missouri

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

Sir:

It has been determined that the previous claim of benefit of priority under 35 U.S.C. 120 was in error.

Applicant hereby petitions for the benefit of the corrected priority from U.S. Serial No. 09/644,722, now Patent No. 6,666,888, as an unintentionally delayed benefit claim under 35 U.S.C. 119(e).

It is believed that all requirements of the Petition under Rule 78(a)(3) are meet as follows:

a) An amendment to the application to cross reference corrected priority is submitted herewith along with a corrected Data Sheet.

11/06/2007 AAHRADI 00000072 10649412
01 FC:1454 1410.00 OP

b) The surcharge of $1410 set forth in Rule 17(t) is submitted herewith. If an additional fee must be charged, please charge it to Deposit Account No. 50-1253.

c) The entire delay between the date when the claim was due and the present was unintentional.

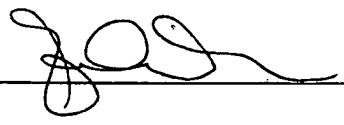
Respectfully Submitted,

John C. McMahon
Reg. No. 29,415
Attorney

JCM:lm
PO Box 30069
Kansas City, Missouri
64112
Phone: (816) 531-3470

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Mail Stop RCE
Commissioner For Patents,
P.O. Box 1450,
Alexandria, VA 22313-1450 on
October 31, 2007.

Roger P. Jackson
(Applicant)

By 

October 31, 2007
(Date of Signature)

Filed w/ Renewed Petition

IN THE SPECIFICATION:

Please amend the Cross Reference to Related Application section of the specification to read as follows:

Cross Reference to related application

The present application is a continuation-in-part of application Serial No. ~~09/729,600, filed December 4, 2003, now Patent No. 6,444,170~~ 09/644,722, filed August 23, 2000, now Patent NO. 6,666,888, which is incorporated herein by reference.

Spec filed w/ Application

Express Mail EV196864140US PATENT

THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE

Background of the Invention

The present application is directed to a threaded interbody device for implantation between a pair of adjacent vertebrae in order to provide support to the vertebrae and/or promote fusion between the vertebrae.

In the human spine the pad or disc between vertebrae is sometimes damaged or deteriorates due to age, disease, injury or congenital defect. The vertebrae themselves may also become compressed or otherwise damaged. Because of this, surgery is often utilized to place spacers or interbody devices between the vertebrae which provide proper spacing of the vertebrae and which often are also utilized to promote fusion between the vertebrae. When a device of this type is utilized for purposes of promoting fusion, it is often referred to as a fusion cage or an intervertebral fusion device. When utilized to promote fusion, the interbody devices often are windowed and packed with bone so as to promote growth of the bone between the vertebrae. Sometimes bone is packed between a pair of devices that are placed in close proximity to one another between the

ADS Filed w/ Application

Express Mail EV196864140US

APPLICATION DATA SHEET

Applicants - Inventors

1) First Inventor: Roger P. Jackson
4706 W. 86th Street
Prairie Village, Kansas 66207

Citizenship: United States of America

2) Correspondence Address:

John C. McMahon
PO Box 30069
Kansas City, MO 64112

3) Title of Invention: THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE

Suggested Classification: Class _____ Subclass _____
Technology Center _____
Total Number of Drawing Sheets 2
Docket No. 10,321
Type of Application: Utility

4) Attorney: John C. McMahon
Address: PO Box 30069
Kansas City, MO 64112
Telephone: (816) 531-3470

Attorney Reg. No. 29,415

5) Domestic Priority:

Serial No. 09/644,722; Filed August 23, 2000

6) ~~Foreign Priority:~~

None

7) Assignee:

None

not a proper claim. But, this is the application that he wants priority to as identified in the latest petition and amendment.

Application Number Information

Application Number: **10/649412** Assignments
Filing or 371(c) Date: **08/27/2003** eDan
Effective Date: **08/27/2003**
Application Received: **08/28/2003**
Pat. Num./Pub. Num: **/20050049587**
Issue Date: **00/00/0000**
Date of Abandonment: **00/00/0000**
Attorney Docket Number: **10,321**
Status: **60 /FINAL REJECTION COUNTED, NOT YET MAILED**
Confirmation Number: **5307**
Title of Invention: **THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE**

Examiner Number: **81245 / SHAFFER, RICHARD**
Group Art Unit: **3733** **IFW Madras**
Class/Subclass: **606/061.000**
Lost Case: **NO**
Interference Number:
Unmatched Petition: **NO**
L&R Code: Secrecy Code:**1**
Third Level Review: **NO** Secrecy Order: **NO**
Status Date: **11/19/2007**
Oral Hearing: **NO**

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

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

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US 20050049587A1

(19) United States

(12) Patent Application Publication (10) Pub. No.: US 2005/0049587 A1

Jackson (43) Pub. Date: Mar. 3, 2005

(54) THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE

(76) Inventor: Roger P. Jackson, Prairie Village, KS (US)

Correspondence Address:
John C. McMahon
PO Box 30069
Kansas City, MO 64112 (US)

(21) Appl. No.: 10/649,412

(22) Filed: Aug. 27, 2003

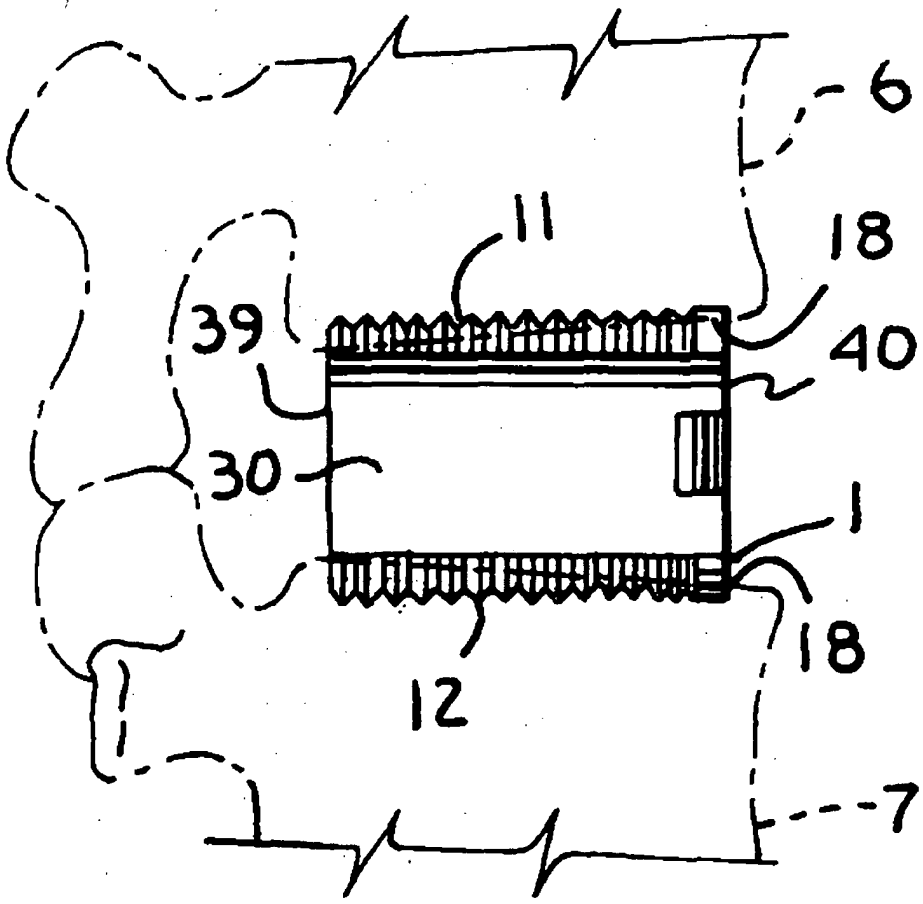
Publication Classification

(51) Int. Cl.[7] A61B 17/70

(52) U.S. Cl. 606/61

(57) ABSTRACT

An interbody device having upper and lower surfaces that are sized and shaped to be operably positioned between a pair of adjacent vertebrae for support and/or fusion. The upper and lower surfaces have a generally convex curvature. The upper and lower surfaces are joined by a pair of side surfaces that are arcuate and semi-circular, when viewed from the front, so as to be generally concave. The interbody devices are used in pairs between two vertebrae and joined by a bar that is received in a recess in each of the devices so as to resist rotation of the devices relative to the bar subsequent to installation.



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WEATHERFORD INTERNATIONAL, INC.
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HOUSTON, TX 77027

In re Application of
MacMillan M. Wisler, et al.
Application No. 10/649,431
Filed: August 27, 2003
Attorney Docket No. AES 03-003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 31, 2006.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before March 30, 2006. It is noted that a partial issue fee payment of $915 was received on January 10, 2006. On May 9, 2006 a Notice of Abandonment was mailed. 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, on May 31, 2006, the present petition was filed along with the balance of the issue fee. For some unknown reason, on June 2, 2006, the $915 paid on January 10, 2006 was refunded to counsel's deposit account. The issue fee of $915 will be recharged to counsel's deposit account using the authorization filed January 10, 2006.

The petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner supplied (1) the reply in the form of the balance of the requisite issue fee of $485; (2) the petition fee of $1,500; and (3) the required 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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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
10/649,436	08/26/2003	2878	960	252011-1610	4	27	4

CONFIRMATION NO. 5190

CORRECTED FILING RECEIPT

OC000000014042108

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

Date Mailed: 10/08/2004

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)

Hung-Jen Hsu, Jhonghe City, TAIWAN;
Chiu-Kung Chang, Jhudong Township, TAIWAN;
Chung-Sheng Hsiung, Kaohsiung City, TAIWAN;
Fu-Tien Wong, Taoyuan City, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number **24504**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/12/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/649,436

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Image sensor with improved uniformity of effective incident light

Preliminary Class

250

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

Barbara R. Doutre
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale FL 33322

In re Application of :
Ellis Pinder :
Application No. 10/649,445 : ON PETITION
Filed: August 26, 2003 :
Title: Method and Apparatus to Ensure :
Intrinsically Safe Operation of A
Communication Device

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 27, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

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 March 6, 2006. 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 June 7, 2006. A Notice of Abandonment was mailed on July 13, 2006.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on March 6, 2006 was not received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn

This application is being forwarded to Art Unit 2617 for re-mailing of the Notice of Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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AKERMAN SENTERFITT
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WEST PALM BEACH FL 33402-3188

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of
Stilgenbauer
Application No. 10/649,478
Filed: August 26, 2003
Title: Turbine Unit and VTG Mechanism Therefor

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 16, 2007. In the alternative petitioner has requested the petition be treated under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **Dismissed**.

The petition to revive under 37 CFR 1.137(b) is **Granted**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 12, 2004. 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 June 13, 2004. A Notice of Abandonment was mailed on October 15, 2004.

Petitioner contends the Office action was received by the assignee who in turn forwarded the action to assignee's legal representative. The action was then improperly docketed by the secretary at Pendorf & Cutliff. The docketing error was not discovered until September 12, 2004. Thereafter, attorney Pendorf relocated to a different firm which resulted in the above-identified application's file being misplaced.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. Petitioner does not contend that the Office action was not received or that a reply to the Office action was timely submitted. Accordingly, petitioner does not dispute that the application is not abandoned. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Alternative Venue

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

A grantable petition under 37 CFR §1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR §1.137(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 requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The change of address has been entered and made of record.

This application is being forwarded to Technology Center 2600 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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P.O. BOX 3000
SHELTON CT 06484

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of :
Cordery et al. :
Application No. 10/649,485 : DECISION ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. F-626 :

This is a decision on the petition, filed February 23, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance mailed August 25, 2008, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on December 18, 2008.

Petitioner asserts that the Office action dated August 25, 2008 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

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

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

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

Petitioner has submitted payment of the issue and publication fees, along with a copy of the Issue Fee Transmittal, with the instant petition. Accordingly, this application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Office of Data Management.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 24, 2008

TO SPE OF : ART UNIT 3672
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/649494/7093676

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: All changes approved

/Jennifer H Gay/, SPE AU 3676 11/19/09

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

KENDAL M. SHEETS
AUTHORIZED REPRESENTATIVE
CPA NORTH AMERICA, LLC
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

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SEP 2 4 2009

OFFICE OF PETITIONS

In re Patent No. 6,893,726 :
Issued: May 17, 2005 :
Application No. 10/649,575 : ON PETITION
Filed: September 18, 2001 :
Title of Invention: **SUBSTRATE COATED WITH SILICA-CONTAINING FILM WITH LQW- DIELECTRIC CONSTANT** :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed August 19, 2009 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 in the amount of $490.00 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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AUG 07 2008

In re Application of	:	
Brugger et al.	:	
Application No. 10/649,582	:	DECISION GRANTING PETITION
Filed: August 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. T4342-14198US17	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 17, 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 concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3761 for appropriate action on the amendment filed July 17, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/649,582	08/27/2003	3761	595	T4342-14198US17	25	3

CONFIRMATION NO. 8937

CORRECTED FILING RECEIPT

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

Date Mailed: 08/06/2008

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

Applicant(s)

James Brugger, Newburyport, MA;
Jeffrey H. Burbank, Boxford, MA;
Dennis Treu, Bedford, NH;

Power of Attorney: The patent practitioners associated with Customer Number 000181

Domestic Priority data as claimed by applicant

This application is a DIV of 09/513,910 02/25/2000 PAT 6,830,553
which is a DIV of 09/451,238 11/29/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/21/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/649,582**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Hemofiltration systems and methods that maintain sterile extracorporeal processing conditions

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Sandford D. Markowitz :
Application No. 10/649,591 : DECISION ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. CWRU-PO3-003 :

This is a decision on the petition filed August 20, 2004, requesting, in effect, that a "Notice of Omitted Item(s)" mailed June 18, 2004, in the above-identified application be withdrawn.

The application was deposited on August 26, 2003. However, on June 18, 2004, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, page seventeen (17) of the specification was missing from the application.

In response, on August 20, 2004, the present petition was filed wherein petitioner argues that a specification containing page 17 was submitted on filing. Petitioner requests that the application, including page seventeen of the specification, be accorded a filing date of August 26, 2003. A copy of page seventeen (17) of the specification accompanied the petition. In support, petitioner has submitted, inter alia, a copy of his postcard receipt. Petitioner acknowledges that his postcard receipt contains a notation that the first page of specification is missing; however, petitioner states "[g]iven the present Notice of Omitted Items is silent with respect to page one, Applicants presume that the PTO now considers page one to have been properly filed."

A further review of the application papers submitted August 26, 2003, confirm receipt of page 17 of the specification, as it is present in the image file wrapper (IFW). It is noted that page one of the specification is not present, which is consistent with the annotation on applicant's postcard receipt.

In view of the above, the petition is GRANTED to the extent that the Notice of June 18, 2004 was mailed in error with respect to page 17 of the specification. The Notice mailed June 18, 2004, is hereby VACATED. The petition fee, which was charged to counsel's deposit account, will be refunded thereto.

Since this file is an IFW, no forwarding of the file is necessary. An electronic message will be sent to the Office of Initial Patent Examination Division to mail a new Notice of Omitted Items in a Non Provisional Application with respect to page one (1) of the specification.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.

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

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JAN 26 2005

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of
Sanford d. Markowitz.
Serial No.: 10/649,591
Filed: August 26, 2003
Attorney Docket No.: CWRU-P03-003

: PETITION TO MAKE SPECIAL

This is in response to applicant's petition filed January 10, 2005, 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, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOSTON, MA 02110-2624

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Sanford D. Markowitz :
Application No. 10/649,591 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. CWRU-P03-003 :

This is a decision on the petition filed August 10, 2005 (certificate of mailing dated August 8, 2005), requesting that the above-identified application retain the presently accorded a filing date of August 26, 2003, with page 1 of the specification, as part of the original disclosure.

On August 26, 2003, the above-identified application was filed. On June 8, 2005, 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 26, 2003, however, page 1 of 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 August 10, 2005, applicants filed the present petition and a copy of a postcard showing that, among other items, 74 pages of specification, including claims and abstract, were received on August 26, 2003. The postcard did not contain an Office date-stamp, however, and cannot be used a prima facie evidence that page 1 of the specification was present on August 26, 2003. In the alternative, petitioner argues that a statement incorporating by reference the entire disclosure of a prior filed application was present on August 26, 2003.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items 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 Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted 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)).

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or applications are hereby incorporated by reference. The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, page 1 of the specification is not new matter if it was a 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 26, 2003, using only the application papers present on filing. The copy of page 1 of the specification will not be processed for examination, but will be kept in the application file.

The petition fee of $400.00 will not be refunded as this petition was necessitated by the applicant's filing error, rather than an error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 26, 2003.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 26 2007

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Z. Angela Guo
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of :
MARKOWITZ, Sanford :
Serial No.: 10/649,591 :Decision on Petition
Filed : August 26, 2003 :
Attorney Docket No.: CWRU-P03-003 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on May 25, 2007 requesting reconsideration of the restriction requirement.

BACKGROUND

On May 3, 2006, the examiner mailed a restriction requirement in which the original claims 75-122 were divided into 6 groups and a specific sequence for an election of species was required.

On June 9, 2006, Applicants elected Group I (Claims 75-107) drawn to a method of detecting a polypeptide having SEQ ID No 3 with traverse. The response traverses the election of species requirement asserting the search of the polypeptide having SEQ ID NO: 3 and the polypeptide having SEQ ID No 21 would not constitute a burden. Applicant elected a method of detecting a polypeptide having SEQ ID NO: 3.

On July 6, 2006 the examiner considered the traversal, made the restriction requirement final and mailed to applicants a non-final Office action, in which Group I (Claims 75, 84-91, 93, 95-106) and a method of detecting a polypeptide having SEQ ID NO: 3 were searched and examined on the merits. The examiner withdrew Claims 94 and 123 drawn to a method of detecting a polypeptide encoded by the polynucleotide having SEQ ID NO: 5 and a method of detecting a polypeptide having SEQ ID No 21 respectively.

On November 13, 2006, Applicants file a response to the Office action.

On December 19, 2006, the examiner considered the response and mailed a final Office action.

On February 21, 2007, Applicants filed an after final amendment.

On March 20, 2007, the Applicants and the examiner held a telephonic interview to propose an examiner's amendment, however no agreement was reached and the examiner mailed an Advisory action.

On May 25, 2007, applicants filed this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered. The petition requests rejoinder of a method of detecting a polypeptide having SEQ ID NO: 21 and a method of detecting a polypeptide encoded by the polynucleotide having SEQ ID No 5 with the elected invention, a method of detecting a polypeptide having SEQ ID NO: 3.

The petition argues that the simultaneous search and examination with respect to SEQ ID NO: 3 and 21 would not impose a serious burden. The petition argues that the amino acid sequence of SEQ ID NO: 21 is a portion of SEQ ID NO: 3. An alignment of SEQ ID NO: 3 and SEQ ID NO: 21 is presented below. It is noted SEQ ID NO: 21 is embedded completely within SEQ ID NO: 3 or stated differently, SEQ ID NO: 21 is a fragment of SEQ ID NO: 3.

Applicants also request rejoinder of a method of detecting a polypeptide encoded by a polynucleotide having SEQ ID No 5. It is noted that SEQ ID NO: 5 is a nucleic acid sequence which encodes the polypeptide having SEQ ID NO: 3.

Thus, a secreted polypeptide having the amino acid sequence of SEQ ID NO: 3 encompasses a secreted polypeptide produced by the expression of the nucleic acid having the sequence of SEQ ID NO: 5.

A polypeptide having SEQ ID NO: 3, a polypeptide having SEQ ID No 21 and a polypeptide encoded by SEQ ID NO: 5 do appear to be overlapping in scope, and would not constitute independent and distinct inventions. The inventions merely differ in breadth of definition.

Combining the method of detecting a polypeptide having SEQ ID NO: 3, the method of detecting a polypeptide having SEQ ID NO: 21 and the method of detecting a polypeptide encoded by a polynucleotide having SEQID NO: 5 into the same group as proposed by applicant is persuasive as the sequences are overlapping and within the scope of each other. A search and examination of the method of detecting these overlapping sequences would not create a serious burden in this particular application.

The examiner, in a telephonic interview of March 16, 2007 appears to have indicated that claims limited to the method of detecting a polypeptide having SEQ ID NO: 3 would be in condition for allowance. As discussed above, a polypeptide encoded by SEQ ID NO: 5 is narrower in scope than SEQ ID NO: 3 and thus is rejoined. Furthermore, Claim 123 depends on Claim 75, and thus further limits Claim 75. Moreover, as illustrated above, SEQ ID NO: 21 is a fragment of SEQ ID NO: 3 and is not distinct from SEQ ID NO: 3.

DECISION

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

The request to withdraw the restriction requirement between the method of detecting a polypeptide having SEQ ID NO: 3, the method of detecting a polypeptide having SEQ ID NO: 21 and the method of detecting a polypeptide encoded by a polynucleotide having SEQ ID NO: 5 has been granted.

Claims 75, 84-91, 93-102, 104-106, 123-125 are under examination. The method of detecting a polypeptide having SEQ ID NO: 21 and the method of detecting a polypeptide encoded by a polynucleotide having SEQ ID NO: 5 are rejoined with the method of detecting a polypeptide having SEQ ID NO: 3 already under examination, and said methods will be examined together.

The application will be forwarded to the examiner for

(I) further action consistent with this decision and

(II) consideration of the papers filed on 25 May 2007 and

(III) preparation of a new non-final action which also addresses the method of detecting a polypeptide having SEQ ID NO: 21 and the method of detecting a polypeptide encoded by a polynucleotide having SEQID NO: 5.

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

John LeGuyader
Director, Technology Center 1600
jb/jg

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

COPY MAILED
OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Hurwitz, Marni M.	:	
Application No. 10/649,604	:	ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. 0200-44	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana C. Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061019

DATE : October 19, 2006

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,998,736

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:

CofC removes references listed on printed patent which were not part of file record.
BM 10/19/06

SPE: Darren Schuberg **Art Unit** 2834

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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 22 2006

Technology Center 2100

In re Application of:
S. FUKUDA, et al.
Application No. 10/649,636
Filed: August 28, 2003
For: STORAGE MANAGEMENT SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on 15 July 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 15 July 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 6, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No 10/649642 patent no7257265

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The request for certificates of correction is approved. A.B 11/15/09

/Samir A. Ahmed/ — **SPE**

2624 — **Art Unit**

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NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of :
Kotaro Akutsu :
Application No. 10/649,645 : ON PETITION
Filed: August 28,2003 :
Attorney Docket No. 00862.023197. :

This is a decision on the petition, filed July 8,2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 2881 will consider the request for continued examination under 37 CFR 1.114.

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

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

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ATTORNEYS AT LAW
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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SEP 3 0 2005

Technology Center 2100

In re Application of: Furukawa, et al.
Application No. 10/649,649
Filed: August 28, 2003
For: STORAGE SUB-SYSTEM AND MANAGEMENT PROGRAM

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 May 24, 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

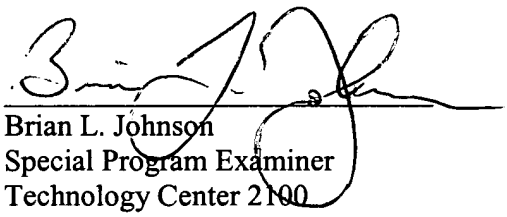
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to requirement (e) above, the petition does not contain a detailed description of the references to the extent required by 37 CF 1.111 (b) and (c). The petition provides a summary of each reference but contains only a general statement that none of the references disclose essentially all of the limitations of independent claims 1 and 11. However, a statement that the entirety of the independent claims is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references. The discussion should identify with particularity the distinction between each independent claim and the disclosure of each cited reference.

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 awaiting response to the first Office action on the merits mailed September 21, 2005.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2007

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No. 10/649660 patent No.: 6991316

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

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In re Application of :
SHIMOZONO, NORIO, et al. :
Application No. 10/649,663 : DECISION ON PETITION
Filed: August 28, 2003 : TO MAKE SPECIAL
For: **SWITCH PROVIDED WITH CAPABILITY OF SWITCHING A PATH** :

This is a decision on the petition filed February 8, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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Technology Center 2100

In re Application of:
NEMOTO et al.
Application No. 10/649,665
Filed: August 28, 2003
For: METHOD AND APPARATUS FOR MANAGING FAULTS IN STORAGE SYSTEM HAVING JOB MANAGEMENT FUNCTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on January 13, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

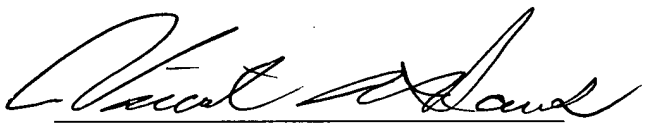
M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of January 13, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



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

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In re Application of HIRAIWA et al
Application No.: 10/649,671
Filing Date: August 28, 2003
For: DISK SUBSYSTEM, COMPUTER SYSTEM, STORAGE MANAGING METHOD AND PROGRAM

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

This is a decision on the petition filed January 24, 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 January 24, 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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PRAXAIR, INC.
LAW DEPT - M1 557
39 Old Ridgebury Road
Danbury, CT 06810-5113

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OFFICE OF PETITIONS

In re Application of :
Richard J. Jibb :
Application No. 10/649,674 :
Filed: August 28, 2003 : DECISION ON
Title of Invention: : PETITION
HEAT EXCHANGER DISTRIBUTOR FOR :
MULTICOMPONENT HEAT EXCHANGE FLUID :

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action, filed June 28, 2006. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly respond to the Notice of Allowance and Issue Fee Due and Notice of Allowability, (hereinafter "Notices"), mailed January 9, 2006. The Notices set a non-extendable three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on April 10, 2006. A Notice of Abandonment was mailed June 8, 2006.

With the instant petition, Petitioner has demonstrated non-receipt of the Notices by a preponderance of the evidence.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3753 for re-mailing of the Notice.

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

Derek L. Woods
Attorney
Office of Petitions

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TECHNOLOGY CENTER 2100

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

In re Application of: Matsushige, et al.
Application No. 10/649,687
Filed: August 28, 2003
For: STORAGE UNIT AND CIRCUIT FOR SHAPING COMMUNICATION SIGNAL

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

This is a response to the petition filed July 22, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

The petition filed July 22, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), all of the claims do not recite the particularly distinct features relied upon in applicant's arguments. Specifically, claims 3, 8, 10, and 13 do not recite the distinct feature of "wherein at least two of the disk drives of the storage unit input data to and output data from a disk control portion of the storage unit at different communication speeds". Also, none of the independent claims recite the distinct feature of "the storage unit has a plurality of communication paths provided to connect at least one of the disk drives in such a manner as to constitute a loop defined by the FC-AL fiber channel standards, so that the communication speeds can be set differently for these communication paths". Pe titioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above.

In addition, applicant may wish to consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of the references cited in the petition by the assigned examiner.

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.

11/19/04

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

MBS

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: MATSUSHIGE et al.
Application No. 10/649,687
Filed: AUGUST 28, 2003
For: STORAGE UNIT AND CIRCUIT FOR SHAPING COMMUNICATION SIGNAL

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

This is a decision on the Request for reconsideration filed December 30, 2004 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed July 22, 2004.

The Reconsideration of the Petition is **GRANTED** with recommendations for future petitions.

The initial decision, mailed November 26, 2004, indicated that the applicant should ensure that the discussion of the **references** is directed to how the language of **each independent claim** shows how it is specifically distinguishable and patentable over the **references.** Therefore, the applicant's discussions should focus on the independent claims; not the dependent claims or a combination of independent and dependent claims. A format not focused on the independent claims may result in delays; since, detailed evaluation time to ensure that the requirements are met increases when the format submitted confuses or disguises whether each independent claim feature is addressed in view of each cited reference.

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.

3/17/05

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

JC

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Technology Center 2100

In re Application of:
Hidetaka SASAKI et al.
Application No. 10/649,698
Filed: August 28, 2003
For: METHOD AND PROGRAM FOR MONITORING EXECUTION STATE OF PROGRAM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 05 April 5 2005 and 10 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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 05 April 2005 and 10 June 2005 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Suzuki
Application No. 10/649,705
Filed: August 28, 2003
For: SYSTEM AND METHOD FOR MANAGING STORAGE DEVICE, AND PROGRAM FOR THE SAME

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

This is a response to the petition filed April 22, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 7/18/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/09

TO SPE OF : ART UNIT 2627 10/649,708

SUBJECT : Request for Certificate of Correction for Appl. No.: ~~10670708~~ Patent No.: 7292229 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 Director's/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: To clarify: the the amendment to claim 13, column 23, at line 5 "the signal" should be "a signal"; Also claim 50, column 30 at line 10 "the signal" should be "a signal";

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of KATSURAGI et al
Application No.: 10/649,733
Filing Date: August 28, 2003
For: DISK ARRAY UNIT AND ITS METHOD FOR WRITING DATA

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

This is a decision on the petition filed December 29, 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 **DISMISSED**.

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.

With respect to requirement (E) above, the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The petition provides a summary of each reference but contains only a general statement that none of the references disclose essentially all of the limitations of the broadest independent claims. However, a statement that the entirety of the independent claims is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references. The discussion should identify with particularity the distinction between each independent claim and the disclosure of each cited reference.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Technology Center 2100

In re Application of: Katsuragi, et al.
Application No. 10/649,733
Filed: August 28, 2003
For: DISK ARRAY UNIT AND ITS METHOD FOR WRITING DATA

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 May 26 & June 21, 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 December 29, 2004 and dismissed on April 28, 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 will be handled by the Examiner under the provisions of M.P.E.P. §708.02, Section VIII, for accelerated examination. 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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OFFICE OF PETITIONS

In re :
Patent No. 6,972,929 : DECISION ON PETITION
Issued: December 6, 2005 :
Application No. 10/649,740 :
Filed: August 28, 2003 :

This is a decision on the "PETITION FOR DUPLICATE U.S. LETTERS PATENT", filed January 25, 2006, which is being treated as a petition under 37 CFR 1.182.

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

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703)308-9250, extension 139.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD (FAX 571-270-9937)

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Technology Center 2100

In re Application of: Noda et al.
Application No. 10/649,748
Filed: August 28, 2003
For: MEHTOD AND APPARATUS FOR RECOVERING WORK OF ONE COMPUTER BY ANOTHER COMPUTER

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 10, 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

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In re Application of	:	
Lenny Sands	:	
Serial Number: 10/649,757	:	PETITION UNDER
Filed: August 26, 2003	:	MPEP 708.02 VIII
For: INDIVIDUALIZED BLENDER	:	

This is in response to the Petition to Make Special filed August 29, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

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OFFICE OF PETITIONS

In re Application of
Daniel J. Burdick et al.
Application No. 10/649,762
Filed: August 26, 2003
Attorney Docket No. P1365R2C1
Title: ANTAGONISTS FOR TREATMENT OF CD/11CD18 ADHESION RECEPTOR MEDIATED DISORDERS

DECISION ON PETITION UNDER 37 C.F.R. §1.182

This is a decision on the petition under 37 C.F.R. §1.182, filed December 10, 2003, requesting that the above-identified application be accorded a filing date of August 26, 2003, with Figures 1-5 as part of the original disclosure of the application.

The application was deposited on August 26, 2003. However, on November 17, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date not Granted" (notice) stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the depositing of drawings. The notice set a two-month period for response.

On December 10, 2003, Petitioner filed the instant petition. Petitioner has included Figures 1-5, and has set forth that these figures were omitted on filing, Petitioner further contended that they were constructively included, through incorporation by reference.

It is noted that the claims of the present application are directed towards a composition. MPEP 608.02 states, in part:

An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;

(B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;
(C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));
(D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or
(E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).

For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g).

If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one compound, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that the claims contain composition claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention.

The petition is **GRANTED-IN-PART**.

The application, as originally filed, is entitled to a filing date of August 26, 2003. The drawings, however, will not be entered.

If Petitioner desires for the Examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The Notice, mailed on November 17, 2003, was sent in error, and is hereby **VACATED**. As such, no petition fee is necessary, and the petition fee has not been charged to Petitioner's Deposit Account.

1 See MPEP 608.02(h) and 608.04.

The application file is being returned to the OIPE for further processing with a filing date of August 26, 2003, using the application papers filed on that date. OIPE will then mail a corrected filing receipt. The drawings will not be entered.

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

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Satoyama, et al.
Application No. 10/649,766
Filed: August 28, 2003
For: STORAGE SYSTEM

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

This is a response to the petition filed December 22, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

The petition filed December 22, 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). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that independent claims 13 and 18 differ in scope from the discussion presented in the petition with respect to independent claims 1 and 8, specifically regarding the means of checking whether free logical storage areas are available, and securing an area for storing a replication in the free logical area found to be available.

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. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

SDL: 03/04/05

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Technology Center 2100

In re Application of: Satoyama et al.
Application No. 10/649,766
Filed: August 28, 2003
For: STORAGE 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 April 5, 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 December 22, 2004 and dismissed on March 9, 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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WASHINGTON, DC 20007-5109

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Ralph M. Ellison et al	:	
Application No. 10/649,776	:	DECISION ON PETITION
Filed: August 28, 2003	:	TO WITHDRAW
Attorney Docket No. 077319-0389	:	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 1, 2005.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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 applicants.

This application is being referred to Technology Center AU 1616.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: CEPHALON, INC
41 MOORES ROAD
PO BOX 4011
FRAZER, PA 19355

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12-4-07

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction on Patent No.: 720866

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

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

Please reply A/S/A/P. Attorney & Applicant want to know the status

E. James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 124

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:

Request for certificate of correction of inventorship is approved.

PH

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

SPE

1792
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,787	08/28/2003	Rajesh K. Garg	021238-578	5592

21839 7590 03/31/2009
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
FORTUNA, JOSE A	
ART UNIT	**PAPER NUMBER**
1791	

NOTIFICATION DATE	DELIVERY MODE
03/31/2009	ELECTRONIC

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

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

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

ADIPFDD@bipc.com

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

wk

Mailed: 3/31/09

In re application of	:	
Garg et al.	:	DECISION ON
Serial No. 10/649,787	:	PETITION
Filed: August 28, 2003	:	
For: Method And Apparatus For Preparing A Slurry Of Add-on Material To Be Applied To A Web	:	

This is a response to a Request To Withdraw Advisory Action which is being treated as a PETITION UNDER RULE 37 C.F.R. 1.181 (no fee) filed June 18, 2008.

Applicants request that the improper Advisory Action be withdrawn and that prosecution be reopened in accord with 37 CFR 41.39(b) (1) as previously requested.

A review of the record indicates that an Examiner's Answer mailed November 29, 2007 contained a new ground of rejection. On January 25, 2008, applicants submitted a Request to Reopen Prosecution under 37 CFR 41.39(b) (1).

DECISION

The Petition is **GRANTED**.

The Examiner is directed to vacate the Advisory action of June 9, 20028 and to reopen prosecution based on the materials submitted January 25, 2008 and March 13, 2008.

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Regis E. Slutter
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-14-08

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/649792 Patent No.: 7392809

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

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

Check Drawings

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

E Ward

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: _____

_____

_____

_____

_____

_____ 1791

SPE Art Unit

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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

Mail Date: 07/02/2010

Applicant	: Jung Ah Lee	: DECISION ON REQUEST FOR
Patent Number	: 7643438	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/649,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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JAN 25 2005

Paper No. 01182005

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

In re Application of	:	
Hashii et al.	:	DECISION ON PETITION
Application No. 10/649,806	:	
Filed: August 26, 2003	:	
Attorney Docket No. 448563/0217	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 24, 2004 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 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

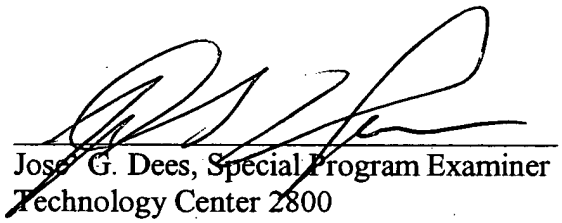
application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, LLP - - - IPTEC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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AUG 2 1 2008

In re Application of	:	
Wu, Yuan-Ting	:	
Application No. 10/649,878	:	ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. IPT/0008	:	

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 a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, 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). Accordingly, since the $1050.00 extension of time fee submitted with the petition on July 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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 notify the Office.

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

This matter is being referred to Technology Center 2627 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
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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Q Technology, Inc.
100 Englewood Drive, Suite H
Lake Orion MI 48359

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MAR 03 2008

In re Application of :
STACK, Thomas :
Application No. 10/649,885 : DECISION ON PETITION
Filed: August 26, 2003 : TO WITHDRAW
Attorney Docket No. **QTI-10502/01** : 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, 2007.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: THOMAS STACK
100 ENGLEWOOD DRIVE, SUITE M
LARK ORION, MI 48359

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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Q Technology, Inc.
100 Englewood Drive, Suite H
Lake Orion MI 48359

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MAR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
STACK, Thomas :
Application No. 10/649,885 :
Filed: August 26, 2003 :
Attorney Docket No. **QTI-10502/01** :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 2, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or **no statement under 3.73(b) was filed**.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on November 2, 2007 does not include one of the above two options.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **D. JAMES CHUNG**
SILICON EDGE LAW GROUP, LLP
100 CORSON STREET, SUITE 300
PASADENA, CA 91103

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
28 STATE STREET
BOSTON MA 02109-1775

In re Application of:
Bornstein, Eric
Serial No.: 10/649,910
Filed: Aug. 26, 2003
Docket: borne40565
Title: NEAR INFRARED MICROBIAL ELIMINATION LASER SYSTEM

DECISION ON PETITION

This is a decision on the petition filed on Jul. 16, 2007 by which petitioner requests withdrawal of the restriction requirement mailed Dec. 29, 2006, and that non-elected claims 1-20 be rejoined and examined on the merits. Claims 21-22 were elected and examined. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

Discussion and Analysis

A review of the record reveals that a restriction requirement was issued on Dec. 29, 2006 between two disclosed and claimed related inventions: I) a laser system (claims 1-20) and II) a method of destroying bacteria (claims 21-22). Currently as the record stands, the issue of the propriety of the restriction requirement in the petition remains with the Group I invention and the Group II invention.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions can be shown to be distinct if either or both of the following can be shown: that if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process, MPEP 806.05(e)[1].

In the instant application, the distinctness between the claimed inventions was justified as stated in the examiner's restriction requirement of Dec. 29, 2006 in that the apparatus claims could be used to illuminate tissue to determine the degree of oxygen saturation of the blood therein. While

[1] M.P.E.P.§806.05(e) [R-5] Process and Apparatus for Its Practice: Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

it appears that the examiner has technically satisfied the one-way distinction requirement set forth in MPEP § 806.05(e), this section further states that the distinction must be based on the apparatus *as claimed.*

In the petition, petitioner alleges the examiner failed to consider all of the limitations present in the pending claims and ignored the plain text of the claims at issue. Petitioner also alleges the near infrared laser(s) of the claimed system are not used for illumination purposes in contrast with the examiner's example given in the restriction.

While the examiner has provided another method for using the apparatus defined by claims 1 and 11, the method fails to take into account that the apparatus claims define the same method as the process claims 21 and 22. While this method need not be explicitly taught by a prior art apparatus structure to result in a possible anticipation or obviousness rejection of the apparatus claims (see MPE P 2114), the language must be taken into account for purposes of a restriction requirement. The examiner has failed to do this. Under the circumstances, the restriction requirement of Dec. 29, 2006 is hereby withdrawn. The examiner is directed to consider the amendment filed on Aug. 15, 2007 along with the non-elected claims 1-20 not inconsistent with the present decision.

Conclusion

In view of the fact that the elected claims and the non-elected claims have a scope co-extensive to each other and the lack of showing of any serious search burden, the restriction requirement promulgated in the Office communication dated Dec. 29, 2006 is withdrawn. The relief requested in the petition is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3735 for further consideration of all pending claims in the amendments filed on Aug. 15, 2007. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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WASHINGTON, DC 20007

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Ralph M. Ellison et al :
Application No. 10/649,944 : DECISION ON PETITION
Filed: August 28, 2003 : TO WITHDRAW
Attorney Docket No. 077319-0384 : 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 1, 2005.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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 1616.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: CEPHALON, INC.
41 MOORES ROAD
PO BOX 4011
FRAZER, PA 19355

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FEB 25 2005

OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of :
Junichi Murakami :
Application No. 10/649,965 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 1232-5119 :

This is a decision on the petition, filed February 9, 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 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2851 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. _____

Date :February 25, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Junichi Murakami
Application No. :10/649,965
Filed :August 26, 2003

The above-identified application has been assigned Patent No. 6,862,409 and an issue date of March 1, 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 1, 2005:

> "All reference to Patent No. 6,862,409 to Junichi Murakami of Japan for CAMERA, LENS APPARATUS, AND CAMERA SYSTEM appearing in the Official Gazette of March 1, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 23, 2007

TO SPE OF : ART UNIT **2851**

SUBJECT : Request for Certificate of Correction for Appl. No.10/649965 patent no.7003222

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Approved.

/Patrick Assouad/ SPE — **SPE**

AU2862 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dr. Murty Mangena
518 Codell Drive
Lexington KY 40509

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APR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Murty Mangena, et al. :
Application No. 10/649,990 : ON PETITION
Filed: August 27, 2003 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 3, 2008, or within a three-month extension of time obtained under the provisions of 37 CFR 1.136(a). The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 4, 2008. See MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The required reply was not filed herewith petition. An Appeal Brief, RCE or Continuation (see MPEP 711.03(c)II.A.2.(c)) must be filed with the renewed petition.

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.

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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Laura J. Zeman**
Snell & Wilmer
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004

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.

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

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,286,216	:	DECISION ON
Fukuhara et al.	:	REQUEST FOR RECONSIDERATION
Issue Date: October 23, 2007	:	OF PATENT TERM ADJUSTMENT
Application No. 10/650,013	:	AND
Filed: August 28, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 04329.3122	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed December 21, 2007. Patentees request correction of the Patent Term Adjustment printed on the face of the patent from two hundred thirty-two (232) days to two hundred fifty-five (255) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred sixty-five (265) days.

On October 23, 2007, the above-identified application matured into U.S. Patent No. 7,286,216. The instant request for reconsideration filed December 21, 2007 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 232 days. Patentees dispute the reduction of 57 days, associated with the Information Disclosure Statement (IDS) filed on July 25, 2007. Patentees state that the IDS was acknowledged by the examiner on August 16, 2007. Moreover, patentees state that the

acknowledgment mailed September 19, 2007 was directed to another IDS (filed prior to the mailing of the notice of allowance). In effect, patentees argue that the period of reduction for the IDS should be calculated beginning on July 25, 2007 and ending on August 16, 2007 (not September 19, 2007).

Patentees' argument is well taken. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

The IDS was filed on July 25, 2007. A 1449, the acknowledgment of the IDS, is in the image file wrapper with a date of August 17, 2007. The examiner has confirmed that the 1449 signed August 16, 2007, should have been mailed on August 17, 2007. A review of the record further confirms that as stated by patentees the 1449 mailed September 19, 2007 was not directed to the IDS filed on July 25, 2007. Thus, the period of reduction pursuant to 37 CFR 1.704(c)(10) is properly calculated as the number of days beginning on July 25, 2007 and ending on August 17, 2007[1]. Accordingly, the correct period of reduction is 24 days, not 57 days.

---

[1] The basis for patentees' argument that the correct PTA is 255 days is unclear. It is noted that patentees' arguments for reconsideration of the PTA have been found persuasive, except the period of reduction is July 25, 2007 to August 17, 2007 (not August 16, 2007).

In view thereof, the patent term adjustment indicated on the patent should be TWO HUNDRED SIXTY-FIVE (265) 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 SIXTY-FIVE (265) 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: DRAFT Certificate of Correction

PTA Calculations for Application: 10/650013			
Application Filing Date:	08/28/2003	PTO Delay (PTO):	440
Issue Date of Patent:	10/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	208
Post-Issue Petitions:	0	Total PTA (days):	265
PTO Delay Adjustment:	33		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	06/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
77	06/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	57		
73.5	10/03/2007	PTA 36 MONTHS			
73	10/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	09/24/2007	EXPORT TO FINAL DATA CAPTURE			
71	09/20/2007	DISPATCH TO FDC			
70	09/19/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	09/14/2007	ISSUE FEE PAYMENT VERIFIED			
68	09/19/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
67	09/18/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
66	09/14/2007	ISSUE FEE PAYMENT RECEIVED			
65	07/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	07/25/2007	REFERENCE CAPTURE ON IDS			
63	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		57	68
62	08/01/2007	FINISHED INITIAL DATA CAPTURE			
61	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	07/10/2007	EXPORT TO INITIAL DATA CAPTURE			
59	07/05/2007	MAIL NOTICE OF ALLOWANCE			
58	06/28/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	06/25/2007	DOCUMENT VERIFICATION			

56	06/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	06/25/2007	NOTICE OF ALLOWABILITY			
54	03/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	06/14/2007	DATE FORWARDED TO EXAMINER			
52	06/05/2007	AMENDMENT AFTER FINAL REJECTION			
51	03/01/2007	NEW OR ADDITIONAL DRAWING FILED			
50.7	03/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		91	45
50	03/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	03/05/2007	MAIL FINAL REJECTION (PTOL - 326)			
48	03/01/2007	FINAL REJECTION			
47	02/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	12/18/2006	DATE FORWARDED TO EXAMINER			
45	11/30/2006	RESPONSE AFTER NON-FINAL ACTION		30	43
44	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	07/31/2006	MAIL NON-FINAL REJECTION			
42	07/24/2006	NON-FINAL REJECTION			
41	05/18/2006	DATE FORWARDED TO EXAMINER			
40	05/11/2006	RESPONSE AFTER NON-FINAL ACTION		30	38
39	05/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/11/2006	MAIL NON-FINAL REJECTION	440		-1
37	01/09/2006	NON-FINAL REJECTION			
36	06/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	03/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	12/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	01/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	11/06/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	10/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	08/02/2005	CASE DOCKETED TO EXAMINER IN GAU			

22.7	06/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
20.7	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19.7	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	08/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17.7	01/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/06/2003	REFERENCE CAPTURE ON IDS			
15.7	11/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/28/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	08/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	06/24/2004	TRANSFER INQUIRY TO GAU			
11	03/16/2004	APPLICATION RETURN FROM OIPE			
10	03/16/2004	APPLICATION RETURN TO OIPE			
9	03/15/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/16/2004	APPLICATION IS NOW COMPLETE			
7	01/30/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/01/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/12/2003	CASE CLASSIFIED BY OIPE			
3	11/12/2003	CLEARED BY OIPE CSR			
2	10/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,286,216 B2

DATED : **October 23, 2007**

INVENTOR(S) : Fukuhara et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 232 days

Delete the phrase "by 232 days" and insert – by 265 days--

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WASHINGTON, D.C. 20231
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Paper No. 8

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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NOV 12 2002

OFFICE OF PETITIONS

In re Application of :
Sivik, et al. :
Application No. 10/037,383 : DECISION GRANTING
Filed: January 4, 2002 : STATUS UNDER 37 CFR
Atty. Dkt. No.: 8389& : 1.47(a)
Title: LIQUID DETERGENT :
COMPOSITIONS COMPRISING :
QUATERNARY NITROGEN-CONTAINING :
AND/OR ZWITTERIONIC POLYMERIC :
SUDS ENHANCERS :

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed November 4, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Dominic Wai-Kwing Yeung has refused to join in 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 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 returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CENTRAL DOCKETING
Atty/GBU Contact: CBC/SDC
DATE RECD NOV 15 2002
☐ FAX ☒ MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DOMINIC WAI-KWING YEUNG
3661 GOLDEN ORCHARD DRIVE
MISSISSAUGA, ONTARIO
CANADA
L4Y 3J2

COPY MAILED

NOV 12 2002

OFFICE OF PETITIONS

In re Application of
Sivik, et al.
Application No. 10/037,383
Filed: January 4, 2002
Atty. Dkt. No.: 8389&
Title: LIQUID DETERGENT COMPOSITIONS COMPRISING QUATERNARY NITROGEN-CONTAINING AND/OR ZWITTERIONIC POLYMERIC SUDS ENHANCERS

LETTER

Dear Sir:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. 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).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 0 5 2005

OFFICE OF PETITIONS

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE, IL 60532

In re Application of :
Hsieh : DECISION REFUSING STATUS
Application No. 10/650,022 : UNDER 37 CFR 1.47(b)
Filed: August 27, 2003 :
Atty. Dkt. No.: A3-098 US :
For: ELECTRICAL POWER JACK :

This decision is in response to the petition under 37 CFR 1.47(b), filed November 1, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 27, 2003 without an executed oath or declaration and naming Guang-Rung Hsieh as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed October 14, 2004. The Notice required an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirements (1) and (5) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor cannot be reached or located. Petitioner merely states the inventor is no longer employed by Molex Taiwan and that a letter was sent to the inventor.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners herein have failed to provide proof of any efforts made to locate the non-signing inventor.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

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

By mail: Mail Stop Petition

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

By facsimile: (703) 872-9306

By hand: U.S. U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Questions regarding the content of this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NYH 10017

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APR 18 2006
OFFICE OF PETITIONS

In re Application of :
Nicholas G. Bacopoulos et al :
Application No. 10/650,025 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 24852-501 CIP3 :

This is a decision on the petition, filed April 14, 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 30, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARD J. LYNCH, PATENT ATTORNEY
ONE EMBARCADERO CENTER
SUITE 562
SAN FRANCISCO, CA 94111

MAILED

APR 29 2009

OFFICE OF PETITIONS

In re Application of
Fred H. Burbank, et al.
Application No. 10/650,027
Filed: August 27, 2003
Attorney Docket No. SENOP-00302

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 3, 2008. A Notice of Abandonment was subsequently mailed on February 18, 2009. In response, on February 24, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the response filed February 24, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG VA 22404

In re Application of	:	
HAISCH, MICHAEL	:	
Application No.: 10/650038	:	DECISION ON
Filing or 371(c) Date: 08/28/2003	:	PETITION
Attorney Docket Number: **0902-005**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed February 17, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed August 19, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1499.

Kendrick Sprull
Application Assistance Unit
Office of Data Management

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ALEXANDRIA, VA 22313-1450
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In re Application of NATORI, YASUAKI
Appl. No.: 10/650,062
Filed: August 27, 2003
For: LASER SCANNING MICROSCOPE

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Janice A. Falcone
Director
Patent Examining Technology Center 2800

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Terry Neumaster, et al. :
Application No. 10/650,075 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 024361-0146 :

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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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OFFICE OF PETITIONS

In re Patent No. 7,193,567 :
Issued: March 20, 2007 :
Application No. 10/650,078 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 16359-002001/659/SM/YK :

This is a decision on the petition under 37 CFR 1.182, filed August 5, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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OFFICE OF PETITIONS

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

In re Patent No. 7,193,657 :
Issued: March 20, 2007 :
Application No. 10/650,078 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 16359-002001/659/SM/YK :

This is a decision on the petition under 37 CFR 1.182, filed October 13, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9753)

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OFFICE OF PETITIONS

In re Patent No. 6,823,158	:	
Issued: August 2, 2005	:	LETTER REGARDING PTA AND
Application No. 10/650,085	:	CERTIFICATE OF CORRECTION
Filed: August 28, 2003	:	
Atty. Dkt. No.: 050374-0107	:	

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed August 23, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 26 days.

The above-identified application matured into U.S. Pat. No. 6,823,158 on August 2, 2005. The patent issued with a PTA of 31 days. Patentees indicate that an error appears in the calculation of PTA and suggests that the correct PTA is 26 days rather than 31 days.

A review of the application history reveals the proper adjustment for Office delays is in fact 26 days as indicated by patentees. In accordance with 37 CFR 1.702(a)(4), an adjustment of 26 days can be attributed to the Office for failure to issue the patent within four months of the issue fee payment. The adjustment began July 8, 2005, the day after the date that is four months after the date that the issue fee payment was received, and ended August 2, 2005, the date the patent issued. See, 37 CFR 1.703(a)(6).

As patentees are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter. A refund of the previously submitted $200.00 application fee has been requested from the Finance Office, Refund Branch on petitioners' behalf.

This application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction

indicating that the above-identified patent has received 26 days of patent adjustment.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,923,158 B2
DATED	:	August 2, 2005
INVENTOR(S)	:	Kang, 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 31 days

Delete the phrase "by 31 days" and insert – by 26 days--

Day : Tuesday
Date: 9/20/2005

PALM INTRANET

Time: 13:42:32

PTA Calculations for Application: 10/650085			
Application Filing Date:	08/28/2003	PTO Delay (PTO):	31
Issue Date of Patent:	08/02/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	26
PTO Delay Adjustment:	-5		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	09/20/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		5	
37	08/02/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	31		33
36	07/05/2005	RECEIPT INTO PUBS			
35	07/05/2005	DISPATCH TO FDC			
34	03/23/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
33	03/02/2005	ISSUE FEE PAYMENT VERIFIED			
32	03/07/2005	ISSUE FEE PAYMENT RECEIVED			
31	01/14/2005	EXPORT TO INITIAL DATA CAPTURE			
30	01/21/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
29	01/06/2005	MAIL NOTICE OF ALLOWANCE			
28	01/05/2005	ISSUE REVISION COMPLETED			
27	01/05/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	01/05/2005	NOTICE OF ALLOWABILITY			
25	12/28/2004	PARALEGAL TD ACCEPTED			
24	11/12/2004	TERMINAL DISCLAIMER FILED		0	20
23	11/12/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
22	11/12/2004	TERMINAL DISCLAIMER FILED			
21	11/19/2004	DATE FORWARDED TO EXAMINER			
20	11/12/2004	RESPONSE AFTER NON-FINAL ACTION			
19	11/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	08/12/2004	MAIL NON-FINAL REJECTION			
17	08/09/2004	NON-FINAL REJECTION			
15	04/28/2004	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
14	02/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/28/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	04/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	03/26/2004	APPLICATION RETURN FROM OIPE			
10	03/26/2004	APPLICATION RETURN TO OIPE			
9	03/26/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/26/2004	APPLICATION IS NOW COMPLETE			
7	02/02/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	02/02/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/01/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/12/2003	CASE CLASSIFIED BY L&R			
3	11/12/2003	CLEARED BY OIPE CSR			
2	10/14/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JUN 04 2007

Robert A. Skrivanek, Jr.
Lowrie, Lando & Anastasi, LLP
One Main Street
Cambridge MA 02142

In re Application of:
VU, KIM NGOC
Serial No. 10/650,102
Filed: Aug. 26, 2003
Docket: C1138-700110
Title:
MODULAR SUBSTRATE GAS PANEL HAVING MANIFOLD CONNECTIONS IN A COMMON PLANE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Nov. 17, 2006 under 37 CFR 1.181 requesting supervisory review of the final office action mailed Jul. 7, 2006 and the advisory action mailed Oct. 31, 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.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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Ido Tuchman,
Law Office of Ido Tuchman
82-70 Beverly Road
Kew Gardens, NY 11415

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Technology Center 2100

In re Application of:
Guerney D. H. Hunt et al.
Application No. 10/650,107
Filed: August 26, 2003
For: TIME-BASED MULTI-TIER MANAGEMENT OF RESURCE SYSTEM

DECISION ON PETITION UNDER 37 CFR § 1.181

This is decision a on the petition under 37 C.F.R. § 1.181 for Withdrawal of Finality filed February 4, 2008.

The petition is **DENIED**.

Claims 1-34 were rejected in a non-final rejection mailed on May 25, 2007. In that action, claims 1-10, 12-22, and 24-33 are rejected under 35 USC 103 (a) as being upatentable over "Tivoli Storage Network Manger" (hereinafter Tivoli) in view of "The Use Of Life Expectancy To Manage Lotus Notes Email Storage" by William G. Pope (hereinafter Bucky). Claims 11, 23, and 34 were rejected under Tivoli in view of Bucky and further in view of "Advances IN Windows NT Storage management "(hereinafter NT). In his response to this action, Petitioner canceled claims 6, 18, and 29. Claims 1-2, 7, 11-13, 19, 24-28, 30, 31 and 34 were amended.

In the Office Action mailed on November 02, 2007, the examiner finally rejected claims 1-5, 7-17, 19-28, and 30-34. Claims 1-5, 7-10, 12-17, 19-22, 24-28, and 30-33 are finally rejected under 35 USC 103 (a) as being upatentable over Tivoli in view of Bucky. Claims 11, 23, and 34 were rejected under Tivoli in view of Bucky and further in view of Stysczinski (US Patent No. 5960169).

In the petition filed on February 4, 2008, Petitioner asserts two basis for his request to withdraw finality of the November 2007 action. First, Petitioner alleges that the final rejection is premature in that a different passage of Bucky was cited as a basis for the rejection of unamended claim 9 than was presented in the prior non-final action of May 2007. Secondly, Petitioner urges that application of Styczinski (US Patent No. 5960169) applied for the first time as a basis of the rejection of claim 11 requires that November 2007 action be made non-final.

(1) The Final Rejection of Claim 9 is premature.

To buttress his position, Petitioner directs attention to a series of cases including In re Kronig, 190 USPQ 425 (CCPA 1976). As noted by Petitioner, the PTO follows rationale for identifying a new grounds of rejection provided in the Kronig decision.

MPEP 1207.03 III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). **Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection**. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

The statutory basis for the rejection of claim 9 in both the final and non-final rejections is 35 USC 103. In both actions, the evidence relied upon is "The Use Of Life Expectancy To Manage Lotus Notes Email Storage" by William G. Pope (Bucky). In this case, the examiner modified his rationale in support of the rejection but did not change the evidence or statutory basis. Thus, as indicated in section 1207.03 reproduced above, this modification does not necessarily constitute a new ground of rejection.

(2). Use of A Styczinki To Reject Claim 11 Requires Withdrawal of Finality of the Action

As a second basis for his request to withdraw finality, Petitioner notes that Styczinski (US Patent No. 5960169) was applied for the first time in the rejection of claim 11 in the November 2007action. Petitioner alleges that application the new reference was not necessitated by an amendment "since the claim limitations rejected in the Final Office Action were not changed".

As noted in MPEP 706.07(a),

> 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).

A review of the record, including page 2 of the petition, indicates that claim 11 was in fact amended in response to the non-final Office Action of May 2007. Thus, application of the new reference was warranted.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/

Gail O. Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Paper No.

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Yanhong Zhu et al.	:	
Application No. 10/650,110	:	DECISION ON PETITION
Filed: August 26, 2003	:	PURSUANT TO
Attorney Docket No.: 13131-0292	:	37 C.F.R. § 1.137(B)
(44378/287574)	:	
Title: METHOD OF TREATING AND	:	
PREVENTING ALZHEIMER DISEASE	:	
THROUGH ADMINISTRATION OF	:	
DELIPIDATED PROTEIN AND	:	
LIPOPROTEIN PARTICLES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed January 28, 2008, 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 July 24, 2007, which set a shortened statutory period for reply

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.

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 October 25, 2007.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this 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 this petition.

With this petition, Petitioner has submitted the petition fee, a statement that is being construed as the proper statement of unintentional delay, and an amendment. A terminal disclaimer is not required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was filed concurrently with this petition can be processed.

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).

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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 :
Stanley D. Arasmith :
Application No. 10/650,118 :
Filed: August 26, 2003 :
Attorney Docket No. 043505-262883 :

ON PETITION

This is a decision on the petition submitted on November 6, 2004, requesting that the above-identified application be accorded a filing date of August 26, 2003, instead of the present filing date of September 21, 2004.

As previously stated in the Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice) of September 1, 2004, the above-identified application had been accorded a filing date of August 26, 2003. The record supports applicant's assertion that the United States Patent and Trademark Office erroneously changed the application filing date to September 21, 2004, the date of applicant's response to the Notice. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The $130.00 petition fee, submitted November 6, 2004, will be refunded to deposit account no. 16-0605.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to August 26, 2003, and the mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 3700 for examination *in due course*.

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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/05

2 Serial/Patent # 10/650,118

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	IFW	11/6/04	$130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $130

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 16--0605

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E-Tannouse TITLE: Pet-Atty.

SIGNATURE: PHONE: 23228

OFFICE: 4700

****

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APPROVED: DATE: 2/3/05

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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ALEXANDRIA, VA 22313-1450
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AUG 24 2005

In re Application of	:	
Stanley D. Arasmith	:	
Serial No. 10/650,118	:	DECISION ON PETITION
Filed: August 26, 2003	:	TO MAKE SPECIAL
For: WOOD-REDUCING APPARATUS WITH CONTINUAL FEEDER ASSEMBLY	:	

Applicant's petition, filed April 5, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Alston and Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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OFFICE OF PETITIONS

In re Application of :
Martin, et al. : DECISION ON PETITION
Application No. 10/650,123 :
Filed: August 28, 2003 :
Docket No.: 484112.432 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 23, 2007.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed March 10, 2006. Notice of Abandonment was mailed September 19, 2006.

Petitioners assert that a response to the non-final Office action and a petition for extension of time were timely submitted on September 11, 2006 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated September 11, 2006 acknowledging receipt of the reply.

The original response submitted September 11, 2006 has not been located in the application file. However the extension of time fee was received September 11, 2006.

In view of the evidence thereof, 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 the Technology Center 1600 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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OFFICE OF PETITIONS

In re Application of	:	
Biro et al.	:	
Application No. 10/650,137	:	ON PETITION
Filed: August 27, 2003	:	
Attorney Docket No. 103657-38 EAR	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 15, 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 December 21, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 22, 2005. A Notice of Abandonment was mailed on June 13, 2005.

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

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, 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.

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 notify the Office.

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

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

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

cc: NORRIS, MCLAUGHLIN & MARCUS, P.A.
ATTN: KURT G. BRISCOE
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of :
Yong Hoon Lee et al :
Application No. 10/650,152 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. 51876P385 :

This is a decision on the petition filed November 5, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Supplemental Notice of Allowance mailed June 18, 2007, which set a statutory period for reply of three (3) months.

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 formal drawings; (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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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Jason Gratton	: DECISION ON REQUEST FOR
Patent Number	: 7578452	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE BOC GROUP, INC.
575 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974-2064

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Randy G. Forshey et al :
Application No. 10/650,170 : ON PETITION
Filed: August 27, 2003 :
Attorney Docket No. BOC 715 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2005.

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

This matter is being referred to Technology Center AU 2855.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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George Likourezos, Esq.
Carter, DeLuca,
Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville, NY 11747

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CANCELLED

In re Application of

Jeffrey J. Terlizzi :

Application No. 10/650,182

: DECISION ON PETITION

Filed: August 28, 2003

:

Attorney Docket No. 1400-35

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed July 6, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on January 8, 2007, with a request fro an extension of time within the third month. An Advisory Action mailed January 29, 2007, advised petitioner that the response of January 8, 2007, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on January 7, 2007.

The Request for Continued Examination filed February 5, 2007, is noted and made of record

The application is being forwarded to Technology Center 2800, GAU 2876 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/06

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/650187** Patent No.: **6896818**

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. 173

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE 1724 **Art Unit**

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PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,146,362 :
Issued: December 5, 2006 :
Application No. 10/650,200 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket Number: BPA02-0001 :

This is a decision on the petition, filed February 16, 2007, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent as the assignee name was erroneously entered on the Fee(s) Transmittal form PTOL-85(b).

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.

Office assignment records reflect that SIDEREAN SOFTWARE, INC. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Anthony J. Janiuk, Esq.
Waters Corporation
Legal Department
34 Maple Street
Milford MA 01757

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Anthony C. Gilby :
Application No. 10/650,213 : DECISION ON PETITIONS
Filed: 08/28/2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. WAA-248 C1 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120; 365(c) and 119(e) for the benefit of the prior-filed prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120; 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 Director may require additional information where there is a question whether the delay was unintentional.

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

the international application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120; 365(c) 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2877 for consideration by the examiner of the claim under 35 U.S.C. §§120; 365(c) and 119(e) of the prior-filed international and provisional applications.

Christina Tartera Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/650,213	08/28/2003	2877	1326	WAA-248 C1	5	29	4

CONFIRMATION NO. 7163

CORRECTED FILING RECEIPT

OC000000022678496

Anthony J. Janiuk, Esq.
Waters Corporation
Legal Department
34 Maple Street
Milford, MA 01757

Date Mailed: 02/28/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Anthony C. Gilby, Foxborough, MA;

Power of Attorney:

Anthony Janiuk--29809
Lin Olsen--41230

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/06336 03/01/2002
which claims benefit of 60/273,093 03/02/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/650,213

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fluorescence detector geometry

Preliminary Class

356

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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 2/7/06

Paper Number_____

In re application of:
Westre et al.
Serial No.: 10/650,231
Filed: August 28, 2003
Title: TITANIUM FOIL PLY REPLACEMENT IN LAYUP OF COMPOSITE SKIN

DECISION
ON PETITION
UNDER 37 CFR 1.97(d)

This is a response to the PETITION UNDER 37 CFR 1.97(d) for consideration of the Information Disclosure Statement (IDS) after final action or notice of allowance and before payment of the issue fee, filed December 1, 2005.

DECISION

The petition has been reviewed and it is found not to be in compliance with the requirements as set forth in 37 CFR 1.97(d) in that the certify translation of the foreign patents (IDS) and PTO-1449 as specified in paragraph (e) of 37 CFR 1.97(d) have not been submitted along with the petition. Accordingly, the petition is denied.

The information referred to the IDS has not been considered.

The petition is **DENIED**.

Harold Y. Pyon
Supervisory Patent Examiner
Technology Center 1700
Chemical and Material Engineering

BLACK LOWE & GRAHAM PLLP,
MARK L LORBIECKI, ESQ
701 FIFTH AVENUE, SUITE 4800
SEATTLE, WA. 98104

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

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OFFICE OF PETITIONS

In re Application of :
Westre, et al. :
Application No. 10/650,231 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No.: BING-1-1030 :

This is a decision on the petition, filed February 15, 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 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 1772 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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BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Andrew P. Bowman	: DECISION ON REQUEST FOR
Patent Number	: 7580769	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1645** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Wolfgang Grieskamp	: DECISION ON REQUEST FOR
Patent Number	: 7584463	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,245	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1019** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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JUN - 2 2005

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

In re Application of	:
Li et al.	:
Serial No.: 10/650,253	: PETITION TO MAKE SPECIAL
Filed: August 27, 2003	:
Attorney Docket No.: **PC11724D**	:

This is in response to applicants' petition filed April 29, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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 Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Zerbini et al. :
Application No. 10/650,275 : ON PETITION
Filed: August 23, 2003 :
Attorney Docket No. 854063.732 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 3, 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)(II)(A)(2). Accordingly, the date of abandonment of this application is October 4, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/556,590.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JOSEPH P. MEHRLE
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Desai et al.	:	DECISION ON PETITION
Application No. 10/650,298	:	TO WITHDRAW
Filed: August 27, 2003	:	FROM RECORD
Attorney Docket No. FORT-002900	:	

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 26, 2006.

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

A review of the file record indicates that on October 28, 2006 the power of attorney to Schwegman, Lundberg & Woessner, P.A. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Michael A Desanctis
Hamilton Desanctis & Cha LLP
Financial Plaza At Union Square
225 Union Boulevard, Suite 305
Lakewood CO 80228

UNITED STATES PATENT AND TRADEMARK OFFICE

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CROMPTON SEAGER & TUFTE LLC
1221 NICOLIET AVE
SUITE 800
MINNEAPOLIS MN 55403

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Daniel, et al. :
Application No. 10/650,304 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 1001.1351114 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(b) 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 decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 21, 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. Accordingly, the above-identified application became abandoned on September 22, 2005. A Notice of Abandonment was mailed on January 10, 2006, after the instant petition was filed on December 30, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply. On renewed petition, petitioner must submit a reply in response to the June 21, 2005 Office action.

Receipt of the $1,500 petition fee is acknowledged. No further petition fee is required on renewed petition.

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

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

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

Telephone inquiries concerning this 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CROMPTON SEAGER & TUFTE LLC
1221 NICOLIET AVE
SUITE 800
MINNEAPOLIS MN 55403

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APR 10 2006
OFFICE OF PETITIONS

In re Application of :
Daniel, et al. :
Application No. 10/650,304 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 1001.1351114 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 21, 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. Accordingly, the above-identified application became abandoned on September 22, 2005. A Notice of Abandonment was mailed on January 10, 2006, after applicants filed a petition to revive on December 30, 2005. The petition was dismissed in a decision mailed on January 17, 2006. There was no indication that applicants had submitted the required reply.

On renewed petition, petitioner explains that applicants filed a continuation application in response to the June 21, 2005 Office action.

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 application No. 11/314,775, filed December 21, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of:
Ranjit J. ROZARIO, et al.
Application No. 10/650,317
Filed: August 27, 2003
For: FREE MEMORY MANAGER SCHEME AND CACHE

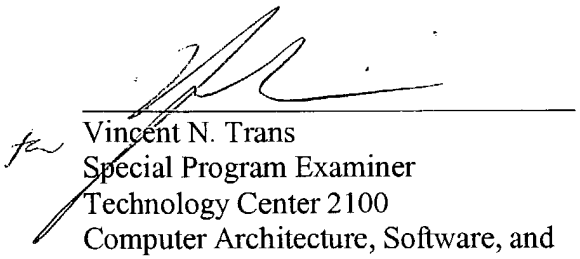
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 22, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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



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

cc: Valley Oak Law
Richard Butler
3641 Pleasant Knoll Drive
San Jose, CA 95148

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Technology Center 2100

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

In re Application of: Hirakawa, et al.
Application No. 10/650,338
Filed: August 27, 2003
For: STORAGE SYSTEM

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on May 18, 2004.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

BLJ: 10/27/04

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FREUDENBERG-NOK GENERAL PARTNERSHIP
LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH, MI 48170-2455

FAX RECEIVED
DEC 19 2005
OFFICE OF PETITIONS

In re Application of :
Martin Novil, et al. :
Application No. 10/650,339 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No.: 03-0019 :
:

This is a decision on the petition, filed December 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3676 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 : December 19, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Martin Novil, et al.
Application No. : 10/650,339
Filed : August 28, 2003

The above-identified application has been assigned Patent No. 6,981,702 and an issue date of January 3, 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 3, 2006:

> "All reference to Patent No. 6,981,702 to MARTIN NOVIL of MICHIGAN for SEALING GASKET WITH FLEXIBLE STOPPER appearing in the Official Gazette of January 3, 2006, 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

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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
10/650,344	08/28/2003	2826	1188	5649-1162	5	35	5

CONFIRMATION NO. 6659

Julie H. Richardson, Esq.
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000012028995

Date Mailed: 03/04/2004

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)

Sung-Yung Lee, Seoul, KOREA, REPUBLIC OF;
Nak-Won Jang, Seoul, KOREA, REPUBLIC OF;
Heung-Jin Joo, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-66520 10/30/2002

If Required, Foreign Filing License Granted: 11/20/2003

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

Title

Semiconductor devices having capacitors of metal-insulator-metal structure with coextensive oxidation barrier pattern and lower electrode bottom and methods of forming the same

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Paper No. 070104

FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood, CA 94063

JUL 2 2004

In re Application of:
WHITNEY *et al.*
Serial No.: 10/650,352
Filed: August 27, 2003
Attorney Docket No.: **14068-017002**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

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

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys associated with Customer No. 22885 was filed on April 26, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

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

cc: MCKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue
Suite 3200
Des Moines, IA 50309-2721

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BROWN RAYSMAN MILLSTEIN
FELDER & STEINER LLP
163 MADISON AVENUE
P O BOX 1989
MORRISTON, NJ 07962-1989

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
James Dillon :
Application No. 10/650,357 : DECISION GRANTING PETITION
Filed: August 27, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5199-5 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Missing Parts of Application (Notice) mailed November 19, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No timely extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 20, 2004.

As the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of November 19, 2003; (2) the petition fee; and (3) the required statement of unintentional delay have been received, the reply is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Patent No. : 7,119,577 B2
Serial No. : 10/650,364
Inventor(s) : Sharangpani
Issued : October 10, 2006
Title : **METHOD AND APPARATUS FOR EFFICIENT IMPLEMENTATION AND EVALUATION OF STATE MACHINES AND PROGRAMMABLE FINITE STATE AUTOMATA**
Docket No. : **81862P289**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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

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

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

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

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

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450

Alexandria, VA 22313-1450

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

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

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

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

MAILED

MAY 21 2009

OFFICE OF PETITIONS

In re Application of
DeFrancesco, et al.
Application No. 10/650,389
Filed: August 28, 2003
Attorney Docket No. DLT-001DIV2

: ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2009, 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 and ADS filed with the petition. In addition, this decision addresses the feeless petition under 37 CFR 1.181, filed March 31, 2009, to withdraw the holding of abandonment in the above-identified application.

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

The petition under 37 CFR 1.181 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed July 25, 2008, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on October 26, 2008 for failure to reply to the July 25, 2008 final Office action. A Notice of Abandonment was mailed on January 26, 2009.

Petitioners requests withdrawal of the holding of abandonment based on the assertion that a petition for a three month extension of time, a RCE, an amendment, a petition under 37 CFR 1.78(a)(3), and an ADS were timely received in the Office on January 23, 2009. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required three month extension of time fee and the required RCE fee were charged on accounting date January 26, 2009. The mailroom date for the payments is January 23, 2009. Therefore, a proper reply to the July 25, 2008 final Office action was timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 26, 2009 Notice of Abandonment is **vacated**.

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 applications and the RCE and amendment filed on January 23, 2009.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/650,389	08/28/2003	3692	880	DLT-001DIV2	12	3

CONFIRMATION NO. 7166

CORRECTED FILING RECEIPT

51414
GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Date Mailed: 05/14/2009

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)

James DeFrancesco, Fort Lauderdale, FL;
Scott Freiman, Irvington, NY;
Arvind Agrawal, Gaithersburg, MD;

Power of Attorney: The patent practitioners associated with Customer Number 051414

Domestic Priority data as claimed by applicant

This application is a DIV of 10/441,534 05/20/2003
which is a DIV of 09/107,321 06/30/1998 PAT 6,587,841
which is a DIV of 08/526,776 09/12/1995 PAT 5,878,403
This application 10/650,389
is a CIP of 08/922,462 09/03/1997 PAT 7,181,427
which is a CIP of 08/526,776 09/12/1995 PAT 5,878,403

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/650,389**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Computer implemented automated credit application analysis and decision routing system

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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4417 LANCASTER PIKE
WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of :
Klein et al. :
Application No. 10/650,410 : DECISION ON PETITION
Filed: 08/28/2003 :
Attorney Docket No. FA1151 US NA :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2009, to revive the above-identified application.

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

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) (or another acceptable reply) within two (2) months of the Notice of Appeal filed October 25, 2007. The Office mailed a Notice of Abandonment on June 3, 2008.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a request for continued examination and a submission, paid the requisite fees, and made the proper statement of unintentional delay.

This matter is being referred to Technology Center Art Unit 1795 for further action on the request for continued examination filed February 11, 2009.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Klausjoerg Klein	: DECISION ON REQUEST FOR
Patent Number	: 7632386	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,410	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1214** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : July 13, 2005

Patent No. :6,875,678
Inventor(s) :Jung et al.
Issued :April 5, 2005-
Title :POST THERMAL TREATMENT METHODS OF FORMING HIGH...
Doc./File No.: :5649-1123

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.

Applicant's request to change the filing date from what appears on the printed patent is not warranted. Applicants' request failed to include proper documentation in support of claim. Accordingly, the filing date as printed is considered in accordance with the records of the Patent and Trademark Office.

Further documentation to support applicants' claim should include the copy of receipt mailed to applicant as proof of filing the application with the Patent and Trademark Office on the date of August 28, 2003.

In view of the forgoing applicants' request is hereby denied. Further correspondence concerning this matter should be directed to the certificate of correction Branch. Any Telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Robert N. Crouse
Myers, Bigel, Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, North Carolina 27627

CBN/arg

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OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
Jung et al.	:	
Application No. 10/650,415	:	DECISION GRANTING PETITION
Patent No. 6,875,678	:	
Filed: August 28, 2003	:	
Issue: April 5, 2005	:	
Attorney Docket No. 5649-1123	:	

This is a decision on the petition filed April 16, 2004, requesting that the above-identified application be accorded a filing date of August 28, 2003, rather than the presently accorded filing date of August 29, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c). A request for certificate of correction requesting the earlier filing date was submitted on June 17, 2005.

The application issued as U.S. Patent No. 6,875, 678 on April 5, 2005, before a decision on the petition. The Office sincerely apologizes for the delay in responding to the instant petition.

Petitioners allege that the application was deposited in Express Mail service on August 28, 2003. In support, the petition is accompanied by a copy of Express Mail receipt No. EV353607250US (the same Express Mail number found on the original application papers located in the official file). The "date-in" on the copy of the Express Mail receipt filed with the petition was partially illegible. However, the Express Mail Label does contain a USPS stamp of August 28, 2003.

Since the petition was filed before the application issued as a patent and included a copy of the Express Mail receipt, the mistake in the patent is clearly disclosed by the records of the Office, and thus the Director may issue a certificate of correction, without charge, under 35 USC § 254 to correct the filing date to August 28, 2003.

In view of the above, the petition under 37 CFR 1.10(c) is granted. No petition fee is required and none has

been paid.

The patented file is being forwarded to the Office of Patent Publication, Certificates of Correction Branch, for processing of the Certificate of Correction. Thereafter, a certificate of correction correcting the filing date of the application (now U.S. Patent No. 6,875,678) to August 28, 2003 will be issued in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
DEMARAY, Richard et al. :
Application No. 10/650,461 : DECISION ON PETITION
Filed: August 27, 2003 : TO WITHDRAW
Attorney Docket No. **10655.0025-00** : 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 28, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **HAYNES AND BOONE, LLP**
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
DAWES, David :
Application No. 10/650,461 : DECISION ON PETITION
Filed: August 27, 2003 : TO WITHDRAW
Attorney Docket No. **10655.0025-00** : 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 29, 2009.

The request is **APPROVED**.

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

The request was signed by C. Larry O'Rourke on behalf of all attorneys of record who are associated with customer No. 22852. All attorneys/agents associated with the Customer Number 22852 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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 signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **DAVID DAWES**
5831 CASTLEKNOCK ROAD
DUBLIN OH 40316

cc: **HAYNES AND BOONE, LLP**
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BROOKS, CAMERON & HUEBSCH, PLLC
1221 NICOLLET AVENUE
SUITE 500
MINNEAPOLIS, MN 55403

Mail Date: 04/21/2010

Applicant	: Arnold M. Escano	: DECISION ON REQUEST FOR
Patent Number	: 7591843	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1599** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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DUGAN & DUGAN, PC
55 SOUTH BROADWAY
TARRYTOWN, NY 10591

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OFFICE OF PETITIONS

In re Application of :
Michael R. Rice, et al. :
Application No. 10/650,480 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No.: 7676/SYNX/JB :

This is a decision on the petition, filed August 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 11, 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 3661 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

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AUG 28 2006

OFFICE OF PETITIONS

Date : August 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Michael R. Rice, et al.
Application No. : 10/650,480
Filed : August 28, 2003

The above-identified application has been assigned Patent No. 7,099,744 and an issue date of August 29, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 29, 2006:

> "All reference to Patent No. 7,099,744 to MICHAEL R. RICE, ET AL. of CALIFORNIA for SUBSTRATE CARRIER HANDLER THAT UNLOADS SUBSTRATE CARRIERS DIRECTLY FROM A MOVING CONVEYOR appearing in the Official Gazette of August 29, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
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)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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
10/650,496	08/28/2003	1761	649	7449.15US01	1	23	7

CONFIRMATION NO. 6962

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

UPDATED FILING RECEIPT

OC000000011967299

Date Mailed: 02/26/2004

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

Applicant(s)

Larry C. McNeff, Anoka, MN;
Clayton V. McNeff, Anoka, MN;
Peter G. Greuel, Anoka, MN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2003

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for extending the shelf life of feed

Preliminary Class

426

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

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

Kent S. Kokko
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

COPY MAILED

JUN 09 2006

OFFICE OF PETITIONS

In re Application of :
SUITOR, et al. : DECISION ON PETITION
Application No.: 10/650,498 :
Filed: August 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 58811US002 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 21, 2005, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on December 13, 2005, that reply did not prima facie place this application in condition for allowance as indicated by the Advisory Action of May 9, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on January 22, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 21, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1734.

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
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MAY 31 2007

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
HORNGREN, Tobias et al. :
Application No. 10/650,531 : DECISION ON PETITION
Filed: August 28, 2003 : TO WITHDRAW
Attorney Docket No. **14069.2US01** : 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).

The request was signed by Sarah M. Monfeldt. The undersigned attorney has been withdrawn; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed May 03, 2007 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SARAH M. MONFELDT**
UNITED STATES PATENT & TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Todd D. Newman et al. :
Application No. 10/650,548 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 03650.002189 :

This is a decision on the petition filed April 3, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned February 1, 2006 for failure to timely pay the issue fee on or before January 31, 2006. A review of the file reveals that the issue fee and publication fee were paid on February 2, 2006 but without a certificate or mail. Accordingly, the Notice of Abandonment was mailed March 17, 2006.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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MAR 22 2004

In re Application of	:	
Eric D. Fox	:	
Serial No. 10/650,560	:	DECISION ON PETITION
Filed: August 28, 2003	:	TO MAKE SPECIAL
For: IDENTIFICATION CARD WITH CHANGEABLE INSERT	:	

Applicant's petition, filed January 20, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Baker Botts, LLP
2001 Ross Avenue, Suite 600
Dallas, TX 75201-2980

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US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS CA 92024

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Hakam Madi : DECISION ON PETITION
Application No. 10/650,577 :
Filed: August 23, 2003 :
Title: LOTTERY CALCULATING DEVICE :

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

The petition is **DISMISSED.**

The petition under 37 CFR 1.137(b) will not be treated on its merits, but rather will remain in the file until the United States Patent and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), as well as the payment of the requisite petition fee, the amount due on the filing of the petition. The fee for filing a petition to revive an unintentionally abandoned application is $750.00. However, the Office finance records indicate that petitioner paid only $250.00. Accordingly, the petition fee is insufficient.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned

application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. MPEP 711.03(c)(III)(B).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

The Office reminds petitioner that the provisions of 37 CFR 1.137(b) 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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A 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 must include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)," a proper response to the Notice to File Corrected Application Papers, and the difference owed of $500.00 for the petition fee. A copy of the Notice to File Corrected Application Papers is enclosed to assist petitioner in preparing an appropriate response.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

By FAX: (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 may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice to File Corrected Application Papers

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

Hakam Madi
423 Scarlet Maple Dr.
Sugarland TX 77479

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Hakam Madi : DECISION ON PETITION
Application No. 10/650,577 :
Filed: August 23, 2003 :
Title: LOTTERY CALCULATING DEVICE :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2005, to revive the above-identified application.

This application became abandoned for failure to respond timely to the Notice to File Corrected Application Papers mailed on November 20, 2003, which set a two-month extendable period to reply. Accordingly, this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on November 3, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an abstract, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted**.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 29 2004

BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877

In re Application of	:
Diane Thibeault et al	:
Serial No.: 10/650,585	: PETITION TO MAKE SPECIAL
Filed: August 28, 2003	:
Attorney Docket No.: 13/082-1-D1	:

This is in response to applicants' petition filed October 20, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The petition could not be acted on until completion of OIPE processing.

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
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

COPY MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
James Defrancesco, et al. :
Application No. 10/650,596 : DECISION ON PETITION
Filed: August 28, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DLT-001DIV3 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2009, 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 **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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. 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 applications.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/650,596	08/28/2003	3692	900	DLT-001DIV3	6	3

CONFIRMATION NO. 7930

CORRECTED FILING RECEIPT

51414
GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Date Mailed: 06/11/2009

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)

James DeFrancesco, Fort Lauderdale, FL;
Scott Freiman, Invington, NY;
Arvind Agrawal, Gaithersburg, MD;

Power of Attorney: The patent practitioners associated with Customer Number 051414

Domestic Priority data as claimed by applicant

This application is a DIV of 10/441,534 05/20/2003
and is a CIP of 08/922,462 09/03/1997 PAT 7,181,427
which is a CIP of 08/526,776 09/12/1995 PAT 5,878,403
and said 10/441,534 05/20/2003
is a DIV of 09/107,321 06/30/1998 PAT 6,587,841
which is a DIV of 08/526,776 09/12/1995 PAT 5,878,403

Foreign Applications

If Required, Foreign Filing License Granted: 11/20/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/650,596**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Computer implemented automated credit application analysis and decision routing system

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).

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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Robert Neal Zettwoch	: DECISION ON REQUEST FOR
Patent Number	: 7573902	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,597	: OF WYETH
Filed	: 08/28/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Burkett	:	
Application No. 10/650,603	:	ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. ACS 65356 (1747D)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 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.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 27, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 28, 2007. *See* MPEP 1215.04.

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) .

No appeal brief appears to have been submitted with the instant petition. Accordingly, the instant petition lacks the required reply.

Any renewed petition must be accompanied by the required reply. The required reply may consist of an appeal brief, a request for continued examination (including submission and fee), a continuation application, or an amendment that places the application in condition for allowance.

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

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

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

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

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

Alesia M. Brown
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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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Burkett :
Application No. 10/650,603 : DECISION ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. ACS 65356 (1747D) :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b) (2)) within the time period provided in 37 CFR 41.37(a) (i). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 27, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 28, 2007. *See* MPEP 1215.04.

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

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

This application is being referred to Technology Center AU 2726 for appropriate action by the Examiner.

Alesia M. Brown
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

SEP - 7 2004

In re Application of :
Magdina et al. :
Serial No. 10/650664 :
Filed: August 29, 2003 :
For: METHOD OF PAINTING, PAINT USABLE FOR THE METHOD, AND METHOD OF PRODUCING THE PAINT :

DECISION ON PETITION UNDER M.P.E.P. 708.02 I

This is in response to the petition filed April 26, 2004, requesting that the above-identified application be made special. This petition is being considered as a petition under the accelerated examination procedure set forth in M.P.E.P. Section 708.02 I (Manufacture). The petition fee under 37 CFR 1.17(h) has been paid.

The petition has been considered and found not to comply with the requirements set forth under the above-noted section. Please refer to the criteria set forth in MPEP 708.02 I.

The petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Ely Zborovsky Patent Bureau
6 Schoolhouse Way
Dix Hills NY 11746

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 25 2004

VP
PAPER NO. ___

In re Application of
Magdina et al.
Serial Number: 10/650,664
Filed: August 29, 2003
For: METHOD OF PAINTING, PAINT USABLE FOR THE METHOD AND METHOD OF PRODUCING THE PAINT

PETITION UNDER
37 CFR 1.102(d)

This is in response to the petition filed April 26, 2004, requesting that the above-identified application be granted Special Status under 37 CFR 1.102(d). The fee under 37 CFR 1.17(h) has been paid.

The request for Special Status is denied because criteria under 37 CFR 1.102(d) have not been met. The exceptions made by way of petitions to make special which may be granted are set forth in Section 708.02 MPEP and Applicant's petition does not meet the criteria.

Accordingly the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Ely Zborovsky Patent Bureau
6 Schoolhouse Way
Dix Hills NY 11746

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Mailed: SEP 3 2004

In re application of	:	
Yu-Ting Shen	:	DECISION ON
Serial No. 10/650,705	:	PETITION
Filed: August 29, 2003	:	
For: MELTING PLASMA METHOD FOR TREATMENT OF ALQ3 ORGANIC WASTE		

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS 37 C.F.R. ∋ 1.84(a)(2) or (b)(2), filed September 3, 2002. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Stanley Silverman
Supervisory Patent Examiner
Technology Center 1700

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LINIAK, BERENATO & WHITE
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Brian Knapke et al :
Application No. 10/650,717 :
Filed: August 29, 2003 :
Attorney Docket No. 08200.815 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak, an attorney of record.

Thomas P. Liniak has been withdrawn as attorney or agent of record; the other attorneys remain of record.

The file is being referred to Technology Center AU 3616 to await a reply (Appeal Brief), to the Notice of Appeal filed February 21, 2006.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 7, 2006

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,083,930 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 F. PATTERSON, JR.
PRIMARY EXAMINER
GROUP 1600

SPE

AU 1652
Art Unit

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

SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON OR 97006

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Bailey, Michael	:	
Application No. 10/650,734	:	DECISION ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. SWIN 3542	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 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 payment of the remainder of the issue fee, (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

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Okada, et al. :
Application No.: 10/650,759 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No.: 990442A :

This a decision on the petition filed July 30, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on August 29, 2003. On June 4, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items of Nonprovisional Application indicating that the application had been accorded a filing date of August 29, 2003, but that pages 118-119 of the specification appeared to have been omitted. The notice allowed a two-month period for reply. The instant petition was filed on July 30, 2004.

Pages 118 and 119 of the specification were not found among the application papers in a review of the application file and petitioner does not indicate whether the omitted pages accompanied the original application papers. Petitioner argues that the application was complete on filing because the subject application is a divisional application of application 09/353,652 that incorporated by reference the prior application in its entirety by a statement found on the application transmittal sheet.

In view of the incorporation by reference statement found on the application transmittal sheet, the application will retain filing date of August 29, 2003 with pages 118 and 119 as part of the original disclosure. The examiner assigned to this application will be expected to compare the subject application with the prior application to be sure that the subject application does not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 29, 2003, with pages 118 and 119 as part of the original disclosure.

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Satoh et al. :
Application No. 10/650,769 : ON PETITION
Filed: 29 August, 2003 :
Attorney's Docket No. 242159US2SRD :

This is a decision on the petition filed on 15 June, 2004, requesting that the above-identified application be accorded a filing date of 29 August, 2003, with Page 37 of the specification and four (4) sheets of drawings, including Figures 2 & 3, as a part of the original disclosure.

The petition is dismissed.

The application was filed on 29 August, 2003.

Accordingly, on 15 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 29 August, 2003, but that Page 37 of the specification (description and claims) and Figures 2 & 3 described in the specification appeared to have been omitted. The an oath or declaration, and surcharge for its late filing were also required.

In response, on 15 June, 2004, the present petition and petition fee and a copy of Page 37 of the specification and one (1) sheet of drawings containing Figures 2 & 3 were filed. The declaration and surcharge were also filed on that date. Petitioners argue that Page 37 of the specification and one (1) sheet of drawings containing Figures 2 & 3 were filed with the other application papers on 29 August, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 29 August, 2003, and identifies the application by the first named inventor's name, attorney docket number, and invention title, and acknowledges receipt of, *inter alia*, "40 pp. Specification" and

"Drawings 4 Sheets". Petitioners request that the application, including Page 37 of the specification and one (1) sheet of drawings containing Figures 2 & 3, be accorded a filing date of 29 August, 2003.

A review of the record reveals that Pages 1-36, 38, and 40 of the specification, including the claims and one (1) page of abstract, as well as three (3) sheets of drawings containing Figures 1, 4, and 5 have been located among the application papers received on 29 August, 2003. However, the evidence is convincing that the application papers deposited on 29 August, 2003, included 40 pages of specification, including the claims and abstract, of which Pages 37 and 39 were subsequently misplaced in the Office, and four (4) sheets of drawings, one of which was subsequently misplaced in the Office.

The petition must be dismissed, however, because on further review, Page 39 of the specification cannot be located among the application papers received on 29 August, 2003. Petitioners must therefore supply a copy of Page 39 with any renewed petition. The petition is dismissed without prejudice to reconsideration pending submission of Page 39 of the specification.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 21, 2006

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/650812 Patent No.: 7,132,412 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: _____

SPE — Art Unit 1623

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/10/08 Paper No.: _____

TO SPE OF : ART UNIT 2854 Kevin Williams

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/650825 Patent No.: 7131780

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Judy Nguyen

JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

SPE

2854
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL RD., SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: Takamoto et al.
Application No. 10/650,828
Filed: August 29, 2003
For: DATA SHARING METHOD AMONG REMOTE COMPUTER SYSTEMS AND DISK CONTROL DEVICE THEREOF

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

This is a decision to the petition filed July 8, 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 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

AWK

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MAY 12 2005

Technology Center 2100

In re Application of: Kawamura et al.
Application No. 10/650,842
Filed: August 29, 2003
For: DISASTER RECOVERY PROCESSING METHOD AND APPARATUS STORAGE UNIT FOR THE SAME

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

This is a response to the petition filed 18 March 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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 18 March 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to specifically point out how the language of claims independent claims 16-19 patentably distinguishes them from the references. At least some of the language purported to be in claims 16-19, e.g., "database processing conducted for a *database buffer* in a host computer, *database data modified in the data base buffer*" (emphasis added), does not appear in these claims. Clarification is required. The discussion also states that the references fail to disclose or suggest essentially all of the limitations of independent claims 5, 10, and 15. It is not clear that the search was directed to the claimed invention if essentially *none* of the claim limitations for these claims were found in the thirteen prior art references deemed "most closely related".

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

ds

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Technology Center 2100

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SUITE 370
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In re Application of: Kawamura et al.
Application No. 10/650,842
Filed: August 29, 2003
For: DISASTER RECOVERY PROCESSING METHOD AND APPARATUS STORAGE UNIT FOR THE SAME

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

This is a response to the renewed petition filed 12 July 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 renewed petition was filed in response to a dismissal of the original petition filed 18 March 2005.

The Petition is **DENIED**.

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:

. . .

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

The original petition was dismissed for failing to meet requirement (e).

The renewed petition filed 12 July 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The renewed petition identifies a first and second feature in each of independent claims 1-15, a third feature of each of independent claims 16-18, and a fourth feature of independent claim 19. However, in identifying these features, the discussion states that the references "fail to disclose or suggest [the identified features] *in combination* with the other limitations recited in the claims" (emphasis added).

It is also stated in the discussion of each reference that the reference "does not disclose or suggest" the identified features for each independent claim "*in combination* with the other limitations recited in each of the independent claims" (emphasis added). In effect, this statement indicates that the *entirety* of each of the nineteen independent claims is not disclosed by the references purported to be most closely related. Such a statement is not a sufficient detailed description.

Petition to Make Special **DENIED**.

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

ds

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: KAWAMURA, et al.
Application No. 10/650,842
Filed: August 29, 2003
For: DISASTER RECOVERY PROCESSING METHOD AND APPARATUS AND STORAGE UNIT FOR THE SAME

DECISION ON PETITION UNDER C.F.R. §1.181 FOR SUPERVISORY REVIEW

This is a response to the "PETITION TO DIRECTOR UNDER 37 CFR §1.181 OF DENIAL OF PETITION TO MAKE SPECIAL" filed 24 October 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.

On 12 May 2005, a decision was mailed dismissing the original petition filed 18 March 2005.

On 23 August 2005, a decision was mailed denying the renewed petition filed 12 July 2005.

The Petition is **DENIED**.

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:

...

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

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

The petition filed 18 March 2005 was dismissed in a decision mailed 12 May 2005 for failing to adequately meet requirement (e) of the criteria set forth above. It was noted that the discussion of the references failed to point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Specifically, it was noted that

> [t]he discussion fails to specifically point out how the language of claims independent claims 16-19 patentably distinguishes them from the references. At least some of the language purported to be in claims 16-19, e.g., "database processing conducted for a *database buffer* in a host computer, *database data modified in the data base buffer*" (emphasis added), does not appear in these claims. Clarification is required. The discussion also states that the references fail to disclose or suggest essentially all of the limitations of independent claims 5, 10, and 15. It is not clear that the search was directed to the claimed invention if essentially *none* of the claim limitations for these claims were found in the thirteen prior art references deemed "most closely related".

The renewed petition filed 12 July 2005 was denied in a decision mailed 23 August 2005 for failing to adequately meet requirement (e) of the criteria set forth above. It was noted that the discussion of the references failed to point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Specifically, it was noted that

> [t]he renewed petition identifies a first and second feature in each of independent claims 1-15, a third feature of each of independent claims 16-18, and a fourth feature of independent claim 19. However, in identifying these features, the discussion states that the references "fail to disclose or suggest [the identified features] *in combination* with the other limitations recited in the claims" (emphasis added). It is also stated in the discussion of each reference that the reference "does not disclose or suggest" the identified features for each independent claim "*in combination* with the other limitations recited in each of the independent claims" (emphasis added). In effect, this statement indicates that the *entirety* of each of the nineteen independent claims is not disclosed by the references purported to be most closely related. Such a statement is not a sufficient detailed description.

The discussion regarding claims 16-19 in the decision mailed 12 May 2005 is not disputed.

Regarding the decision mailed 23 August 2005, it is urged that "arguing that specific features in combination with other limitations of the claims renders the claims patentable over the references is highly appropriate and satisfies the requirements of 37 CFR §1.102(b)." While such an argument may be appropriate to distinguish the claims from the references in regard to obviousness, it is not appropriate to distinguish the claims from the references in regard to anticipation. As noted in the decision mailed 23 August 2005, the statement attempting to distinguish the claims from the references in effect states that the entirety of the independent claim is not disclosed by the reference. A statement that the entirety of each independent claim is not disclosed by the references purported to be "most closely related" is not a sufficient detailed description as to anticipation. The petitions fail to point out which particular feature or features are not shown by the references such that the claims are not anticipated. I.e., regarding anticipation, stating that the references fail to show the claim in its entirety is simply a general allegation that does not comply with the requirements of 37 CFR 1.111(b) and (c).

Accordingly, Applicant has not met the criteria for the granting of a Petition for accelerated examination. The petition is **DENIED.**

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Peter S. Wong, Group Director
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-1400

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AUG 20 2008

In re Application of	:	
Kawamura et al.	:	
Application No. 10/650,842	:	DECISION ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. 500.43096X00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 13, 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). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was timely filed. Accordingly, the date of abandonment of this application is April 14, 2008. A Notice of Abandonment was mailed June 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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.

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

This application is being referred to Technology Center AU 2166 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of:
J. OKITSU et al
Application No. 10/650,843
Filed: August 29, 2003
For: METHOD OF CONTROLLING TOTAL DISK USAGE AMOUNT IN VIRTUALIZED AND UNIFIED NETWORK STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on September 20, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

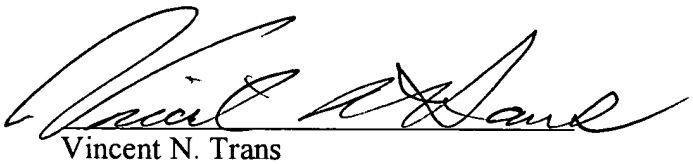
The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

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

Applicant's submission of September 20, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
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571-272-3613

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Technology Center 2100

In re Application of: Asano et al.
Application No. 10/650,851
Filed: August 29, 2003
For: STORAGE OPERATION MANAGEMENT PROGRAM AND METHOD AND A STORAGE MANAGEMENT COMPUTER

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

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 detailed discussion of the Watanabe reference does not specify the features of claims 7 and 15 that read over the references cited. The (1) generation of a replication (copy) destination data areas based on a policy or information of the replication source data area or the feature that (2) determines a different route for replication transfer based on a policy or information of the replication source date area and/or line information has not been set forth in claims 7 or 15. In the discussion of Matsunami or Soejima, the feature (3) discussing volume replication has not been set forth in any of claims 1, 3, 6, 7, 9, 11, 14, or 15. Also, the feature that teach that the compatibility determination is made based on a policy or information of the replication source data area has not been set forth in claims 1, 3, 7, 9, 11, or 15. 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 reference provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject**

matter is patentable over the references. Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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

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

3/17/05

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In re Application of: Asano, et al.
Application No. 10/650,851
Filed: 29 August 2003
For: STORAGE OPERATION MANAGEMENT PROGRAM AND METHOD AND A STORAGE MANAGEMENT COMPUTER

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 19 May 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 12 November 2004, and dismissed in the decision mailed 21 March 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.

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
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571-272-3595

7/15/05

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In re Application of: MIMATSU, et al.
Application No. 10/650,858
Filed: August 29, 2003
For: DATA BACKUP METHOD AND 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 December 29, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

The petition filed December 29, 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). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that the independent claim 10 differs in scope from the discussion presented in the petition with respect to independent claims 1, 9 and 12, specifically regarding the storing process in which information from both the first and second storage regions can be stored as management information for and to be associated with the backup data.

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. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

3/17/05

SDL: 03/17/05

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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
10/650,879	08/28/2003	2814	1056	5649-1128	19	37	3

CONFIRMATION NO. 8742

CORRECTED FILING RECEIPT

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PO BOX 37428
RALEIGH, NC 27627

OC000000011878296

Date Mailed: 02/11/2004

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)

Hyun-Ho Kim, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-54908 09/11/2002

If Required, Foreign Filing License Granted: 11/21/2003

Projected Publication Date: 03/11/2004

Non-Publication Request: No

Early Publication Request: No

Title

Ferroelectric capacitors having oxidation barrier conductive layers and lower electrodes disposed in trenches defined by supporting insulating layers and methods of fabricating the same

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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NOT GRANTED

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

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601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

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MAR 12 2010

In re Application of	:	
Ciprian Gociman	:	
Application No. 10/650,891	:	DECISION GRANTING PETITION
Filed: August 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-1684US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2431 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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SUITE 1400
SPOKANE, WA 99201

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OFFICE OF PETITIONS

In re Application of :
Ciprian Gociman :
Application No. 10/650,891 : DECISION GRANTING PETITION
Filed: August 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-1684US :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2431 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

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

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

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CORPORATION
CIMS 483-02-19
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AUBURN HILLS, MI 48326-2757

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OFFICE OF PETITIONS

In re Application of :
Andreas Schell et al :
Application No. 10/650,893 : DECISION GRANTING PETITION
Filed: August 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 706716US1 :

This is a decision on the petition, filed July 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 May 26, 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 1754 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\july9\650893.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that 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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Mohamad Bazzi
William Kaafarani
6200 Argyle
Dearborn MI 48126

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OFFICE OF PETITIONS

In re Patent No. 6,871,783	:	
Issue Date: March 29, 2005	:	
Application No. 10/650,899	:	DECISION ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. 1121.00101	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 8, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 30, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Andy H. Uchida et al	:	
Application No. 10/650,928	:	DECISION GRANTING PETITION
Filed: August 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 22416-017001/PT-2702USCIP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 12, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SMITH & NEPHEW, INC.
150 Minuteman Road
Andover MA 01810

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OFFICE OF PETITIONS

In re Application of	:	
Uchida, et al.	:	DECISION ON APPLICATION
Application No. 10/650,928	:	FOR
Filed: August 29, 2009	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
22416-017001/PT-2702USCIP	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER UNDER 37 CFR 1.705(d)," filed January 5, 2009. Applicants request that the patent term adjustment of seven hundred and two(702) days be adjusted to a determination of one thousand and eighty seven(1087) days.

The request for reconsideration of patent term adjustment is **GRANTED-IN-PART**. Patentee is entitled to a determination of **1081 days** at the time of the issuance of the patent.

On November 11, 2008, the above-identified application matured into US Patent No. 7,449,019 with a patent term adjustment of 702 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), paid on January 1, 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 total patent term adjustment of 1,087 days, which includes 472 days due to exceeding three year pendency.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 756 days.

Patentees err in the "B" period calculation by one day. In that, the period is calculated from the day after the 36 months, i.e. from August 29, 2006 until one day before the filing of an RCE or the issue date. In this case the RCE was filed on December 14, 2008, hence the "B" period extends from August 30, 2006 to December 13, 2008 for a total of 471 days. Thus, the PTA term is the total "A" delay of 756 days, plus the total "B" delay of 471 days, minus the "A" and "B" overlap (87 days), which is not disputed, minus the applicant delay.

In addition, it is noted that patentees should have accrued a 5 day reduction under 37 CFR 1.704(c)(10) for the withdrawal of issue filed on May 23, 2008 and ending with the mailing on May 23, 2008 a five day delay. Accordingly, patentees determination at the time of the issuance of the patent is **1081** days.

The Office finds the following:

"A" delay of 756

"B" delay of 471

"C" delay of zero

Overlap of 87

Applicant delay of 59.

Total 751+471+0-0-59=1081at

Since the Office issued a grant-in-part and intends to issue a certificate of correction, patentee is given an opportunity to be heard. Patentees are given one month or thirty (30) days whichever is longer to issue a certificate of correction. Nothing in this decision should be construed as granting patentee additional time in filing a civil action under 35 USC 154.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

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

cc: Adjusted PTA calculation
Draft Certificate of Correction

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 11:25:19

PTA Calculations for Application: 10/650928			
Application Filing Date:	08/29/2003	PTO Delay (PTO):	756
Issue Date of Patent:	11/11/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	54
Post-Issue Petitions:	0	Total PTA (days):	1081
PTO Delay Adjustment:	379		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
108	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	379		
104.5	10/22/2008	PTA 36 MONTHS			
104	11/11/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
103	09/30/2008	EXPORT TO FINAL DATA CAPTURE			
102	09/29/2008	DISPATCH TO FDC			
101	07/29/2008	ISSUE FEE PAYMENT VERIFIED			
99	07/29/2008	ISSUE FEE PAYMENT RECEIVED			
97	06/09/2008	EXPORT TO INITIAL DATA CAPTURE			
95	06/10/2008	MAIL NOTICE OF ALLOWANCE			
94	06/05/2008	ISSUE REVISION COMPLETED			
93	06/05/2008	DOCUMENT VERIFICATION			
92	06/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	06/10/2008	NOTICE OF ALLOWABILITY			
90	06/10/2008	DATE FORWARDED TO EXAMINER			
89	05/23/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
88	06/10/2008	DISPOSAL FOR A RCE / CPA / R129			
88	06/10/2008	DISPOSAL FOR A RCE / CPA / R129			
79	05/23/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	05/27/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
77	05/27/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
76	05/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	05/23/2008	PETITION ENTERED			
74	05/23/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	05/16/2008	EXPORT TO FINAL DATA CAPTURE			
72	05/15/2008	DISPATCH TO FDC			
71	05/13/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	05/12/2008	ISSUE FEE PAYMENT VERIFIED			
69	05/12/2008	ISSUE FEE PAYMENT RECEIVED			
68	05/09/2008	MAILING CORRECTED NOTICE OF ALLOWABILITY			
67	05/07/2008	CORRECTED NOTICE OF ALLOWABILITY			
64	04/30/2008	CORRESPONDENCE ADDRESS CHANGE			
63	04/09/2008	FINISHED INITIAL DATA CAPTURE			
62	02/12/2008	EXPORT TO INITIAL DATA CAPTURE			
61	02/11/2008	MAIL NOTICE OF ALLOWANCE			
60	02/05/2008	ISSUE REVISION COMPLETED			
59	02/05/2008	DOCUMENT VERIFICATION			
58	02/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	10/22/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	02/05/2008	NOTICE OF ALLOWABILITY			
52	01/08/2008	DATE FORWARDED TO EXAMINER			
51	12/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
50	01/08/2008	DISPOSAL FOR A RCE / CPA / R129			
49	01/08/2008	DATE FORWARDED TO EXAMINER			
48	12/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	12/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	12/04/2007	MAIL ADVISORY ACTION (PTOL - 303)			
45	12/03/2007	ADVISORY ACTION (PTOL-303)			
44	11/28/2007	DATE FORWARDED TO EXAMINER			
43	11/14/2007	AMENDMENT AFTER FINAL REJECTION			
42	09/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
41	09/12/2007	FINAL REJECTION			
40	08/07/2007	DATE FORWARDED TO EXAMINER			

39	08/06/2007	RESPONSE AFTER NON-FINAL ACTION		2	37
38	05/24/2007	CORRESPONDENCE ADDRESS CHANGE			
37	05/04/2007	MAIL NON-FINAL REJECTION			
36	04/30/2007	NON-FINAL REJECTION			
35	02/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	04/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33.7	04/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		50	29
33	04/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	02/26/2007	REFERENCE CAPTURE ON IDS			
31.7	02/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	03/01/2007	DATE FORWARDED TO EXAMINER			
29	02/26/2007	RESPONSE AFTER NON-FINAL ACTION		2	28
28	11/24/2006	MAIL NON-FINAL REJECTION	756		-1
27	11/21/2006	NON-FINAL REJECTION			
26	04/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/29/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	11/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	07/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	04/13/2006	REFERENCE CAPTURE ON IDS			
21.7	04/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	04/13/2006	PRELIMINARY AMENDMENT			
19	08/29/2003	REFERENCE CAPTURE ON IDS			
18.7	08/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	08/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	08/24/2005	TRANSFER INQUIRY TO GAU			
16	03/25/2004	APPLICATION RETURN FROM OIPE			
15	03/25/2004	APPLICATION RETURN TO OIPE			
14	03/25/2004	APPLICATION RETURN FROM OIPE			
13	03/25/2004	APPLICATION IS NOW COMPLETE			
12	03/25/2004	APPLICATION RETURN TO OIPE			
11	03/22/2004	APPLICATION DISPATCHED FROM OIPE			
10	03/23/2004	APPLICATION IS NOW COMPLETE			
9	02/25/2004	ADDITIONAL APPLICATION FILING FEES			
8	02/25/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	11/28/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	11/14/2003	CASE CLASSIFIED BY OIPE			
4	11/14/2003	CLEARED BY OIPE CSR			
3	11/14/2003	CLEARED BY OIPE CSR			
2	10/08/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/29/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Christopher Dennis Bencher	: DECISION ON REQUEST FOR
Patent Number	: 7608300	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/650,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Kevin **ZOU**	:	
Application No. 10/650,994	:	DECISION GRANTING PETITION
Filed: August 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **06556-0049**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 13, 2009, to withdraw the above-identified application from issue after payment of the issue fee..

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 5, 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 2162 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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In re Application of :
Raney, et al. :
Application No. 10/651,006 : DECISION
Filed: 28 August, 2003 : ON PETITION
Attorney Docket No.: TH2304 (US) :

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed 21 October, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to a prior filed provisional application (Application No. 60/407,724, filed 3 September, 2002).

The petition is **DISMISSED as moot**, and no fee is charged.

Along with the instant petition under 37 C.F.R. §1.78(a)(6), Petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed provisional application.

The current procedure is that—where a claim for priority under 37 C.F.R. §1.78(a)(6) is not included in the first sentence of the specification or in an application data sheet (ADS), but does appear either in the oath or the declaration or a transmittal letter filed with the application and the Office notes the claim for priority—no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 C.F.R. §1.78(a)(2(ii).

If, on the other hand, the Office does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or the transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 C.F.R. §1.78(a)(6).

Application No. 09/928,622

In the instant case, the office noted the claim for priority of the above-noted, prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

Thus, the petition fee authorized is unnecessary and has not been charged.

This matter is being referred to Technology Center 1600 for further processing and appropriate action on the amendment filed 21 October, 2004, including consideration in due course of the claim under 35 U.S.C. §119(e) for the benefit of priority to a prior filed provisional application.

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6959793
Issue Date: November 1,2005
Application No. 10651012
Filed: August 28,2003
Attorney Docket No. 802001

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

This is a decision on the electronic petition, filed January 20,2010 ,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 January 20,2010 . 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.

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)
6959793	2005-11-01	10651012	2003-08-28	

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	/Charles R. Szmanda/	Date (YYYY-MM-DD)	2010-01-19
Name	Charles R. Szmanda	Registration Number	48618

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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PARKHURST & WENDEL, L.L.P.
1421 PRINCE STREET
SUITE 210
ALEXANDRIA VA 22314-2805

In re Application of :

IIJIMA, YUKIO, et al. :
Application No. 10/651,033 :
Filed: August 29, 2003 :
For: **OPTICAL DISC RECORDING AND REPRODUCTION APPARATUS HAVING AUTOMATIC GATE SIGNAL GENERATION MODES** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 9, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (4) in that the search method was not fully discussed. When a database is used in searching, the search term logic employed should be set forth in the petition.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
SAKAI et al. : LETTER REGARDING PATENT
Application No. 10/651,038 : TERM ADJUSTMENT
Filed: 08/29/2003 :
Attorney Docket No. 086142-0575 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed May 19, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is **GRANTED to the extent indicate 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 **254 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 29, 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 283 days. On May 19, 2008, applicants submitted the instant comment.

Applicants state that the determination of patent term adjustment of 283 days, as indicated in the notice of allowance, disagrees with their calculation of 202 days of patent term adjustment. Therefore, applicants request a review of the calculation of patent term adjustment for the above-identified application.

A review of the application history confirms that the entry of a period of adjustment of 29 days pursuant to 37 CFR 1.703(a)(4) is incorrect.

Pursuant to 37 CFR 1.702(a), failure of the Office to respond 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 the appeal was taken is a ground for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999. The phrase the date on which "an appeal was taken" in 35 U.S.C. 154(b)(i)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 37 CFR 1.192" requires that: (i) the appeal brief fee (37 CFR 1.17(c)) be paid (37 CFR 1.192(a)); and (2) the appeal brief complies with 37 CFR 1.192(c)(i) through (c)(9). Accordingly, 37 CFR 1.703(a)(4) pertains to the provisions of 35 U.S.C. 154(b)(i)(A)(ii) and specifies that the period of adjustment for Office delay includes the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

In this instance, an appeal brief was filed on August 14, 2006. On September 5, 2006, a notification of non-compliant appeal brief was mailed, stating that the brief was defective for failure to comply with one or more provisions of 37 CFR 41.37. On October 5, 2006, a corrected appeal brief was filed. On January 12, 2007, an examiner's answer under § 1.193 was mailed within four (4) months of October 5, 2006, the date the appeal brief in compliance with 37 CFR 1.192 was filed. Accordingly, there was no basis for entry of a period of adjustment for Office delay. The period of adjustment of 29 days is being removed.

Further, it is noted that the filing of the defective appeal brief on August 14, 2006, is not an action that constitutes a failure to engage in reasonable efforts to conclude prosecution of the application within the meaning of 37 CFR 1.704(c)(7).

37 CFR 1.704(c)(7) specifies the submission of a reply having an omission (§ 1.135(c)) is a circumstance that constitutes a

failure of the applicant to engaged in reasonable efforts to conclude processing or examination of an application resulting in a reduction of the period of adjustment by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The Office notes that 37 CFR 1.704(c)(7) only applies to the submission of a reply having an omission. As an appeal brief is not a reply, no reduction under 37 CFR 1.704(c)(7) is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **254 days (283 days of Office delay - 29 days of applicant delay).**

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Wednesday

PALM INTRANET

Date: 1/28/2009
Time: 17:36:34

PTA Calculations for Application: 10/651038			
Application Filing Date:	08/29/2003	PTO Delay (PTO):	312
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	254
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	01/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
59	02/29/2008	MAIL NOTICE OF ALLOWANCE			
58	02/28/2008	ISSUE REVISION COMPLETED			
57	02/28/2008	DOCUMENT VERIFICATION			
56	02/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	02/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
54	02/19/2008	NOTICE OF ALLOWABILITY			
53	02/14/2008	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
52	02/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
51	02/07/2008	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
50	02/07/2008	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
49	01/24/2008	APPEAL AWAITING BPAI DOCKETING			
48	01/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
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44	03/19/2007	EXAM. ANS. REVIEW COMPLETE			
43	03/19/2007	APPEAL BRIEF REVIEW COMPLETE			
42	01/12/2007	MAIL EXAMINER'S ANSWER	29		35
41	01/08/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
40	10/25/2006	DATE FORWARDED TO EXAMINER			
39	10/05/2006	APPEAL BRIEF FILED			
38	09/05/2006	NOTICE -- DEFECTIVE APPEAL BRIEF			
37	09/01/2006	APPEAL BRIEF REVIEW COMPLETE			
36	09/01/2006	DATE FORWARDED TO EXAMINER			

35.1	08/14/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
35	08/14/2006	APPEAL BRIEF FILED			
34	08/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	06/02/2006	MAIL APPEALS CONF. PROCEED TO BPAI			
32	06/02/2006	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
31	05/12/2006	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
30	05/12/2006	NOTICE OF APPEAL FILED		29	24
29	05/12/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	04/10/2006	MAIL ADVISORY ACTION (PTOL - 303)			
27	04/06/2006	ADVISORY ACTION (PTOL-303)			
26	03/31/2006	DATE FORWARDED TO EXAMINER			
25	03/27/2006	AMENDMENT AFTER FINAL REJECTION			
24	01/13/2006	MAIL FINAL REJECTION (PTOL - 326)			
23	01/09/2006	FINAL REJECTION			
22	03/24/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	08/29/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	11/03/2005	DATE FORWARDED TO EXAMINER			
19	10/28/2005	RESPONSE AFTER NON-FINAL ACTION			
18	08/08/2005	MAIL NON-FINAL REJECTION	283		-1
17	08/04/2005	NON-FINAL REJECTION			
16	07/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	05/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	08/29/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12.7	03/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/29/2003	REFERENCE CAPTURE ON IDS			
10.7	08/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

10	08/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/19/2003	APPLICATION RETURN FROM OIPE			
8	11/19/2003	APPLICATION RETURN TO OIPE			
7	11/20/2003	APPLICATION IS NOW COMPLETE			
6	11/19/2003	APPLICATION DISPATCHED FROM OIPE			
5	11/20/2003	APPLICATION IS NOW COMPLETE			
4	11/14/2003	CASE CLASSIFIED BY OIPE			
3	11/14/2003	CLEARED BY OIPE CSR			
2	10/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/29/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
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INDIANAPOLIS, IN 46204-2079

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of

Mital, et al.

Application No. 10/651,055

Filed: August 28, 2003

Attorney Docket No. FLTW-65

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 1, 2006, and in duplicate on July 27, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 25, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on April 26, 2006. A Notice of Abandonment was mailed on June 27, 2006.

The issue fee and publication fee were received on June 1, 2006.

Form PTOL-85B, filed June 1, 2006, is noted and made of record.

It is noted that the issue fee, publication fee, and petition were charged in duplicate on July 27, 2006. The amounts charged for the fees will be refunded to the credit card on which the fees were charged, in due course.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

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APR 12 2004

OFFICE OF PETITIONS

In re Application of :
Gupta and Smiricinschi : DECISION ACCORDING STATUS
Application No. 10/651,074 : UNDER 37 CFR 1.47(a)
Filed: 28 August, 2003 :
Atty Docket No. PMI-23 :

This is in response to the petition filed under 37 CFR 1.47(a) on 18 February, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Valeriu Smiricinschi. However, the non-signing inventors has not returned an executed declaration listing him as a joint inventor along with Krishna Gupta.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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DIW 04-04

Valeriu Smiricinschi
316 Highland Road, Apt. B204
Ithaca NY 14850

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APR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Gupta et al.
Application No. 10/651,074
Filed: 28 August, 2003
For: METHOD AND APPARATUS FOR REDUCTION OF GAS BUBBLE FORMATION DUE TO GAS DIFFUSION THROUGH LIQUIDS CONTAINED IN PORES

Dear Dr. Smiricinschi:

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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Marc Roelands :
Application No. 10/651,080 : DECISION ON PETITION
Filed: August 29, 2003 : TO WITHDRAW
Attorney Docket No. 449122061100 : 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 10, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed August 1, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC ROELANDS
ARMAND SEGERSLIE 132/3
B-2640 MORTSEL, BELGIUM

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

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
10/651,080	08/29/2003	Marc Roelands	449122061100

CONFIRMATION NO. 7254

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

POWER OF ATTORNEY NOTICE

OC000000027490265

Date Mailed: 12/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/10/2007.

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

/amwise/

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

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Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Ronald Legree :
Application No. 10/651,089 : DECISION ON PETITION
Filed: August 29, 2003 : TO WITHDRAW
Attorney Docket No. 7603.100 : 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 05 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 P. Liniak attorney/agent of record on behalf of himself.

Thomas P. Liniak 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 at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/651,090	08/18/2003	2643	672	NETF-002	17	53	3

CONFIRMATION NO. 7740

Gordon & Jacobson, P.C.
65 Woods End Road
Stamford, CT 06905

UPDATED FILING RECEIPT

OC000000011767006

Date Mailed: 01/26/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an err r 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)

Jeffrey I. Robinson, New Fairfield, CT;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2003

Projected Publication Date: 02/24/2005

N n-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method, apparatus and system providing improved voice routing capabilities

Preliminary Class

379

LICENSE FOR FOREIGN FILING UNDER
Title 35, Unit d 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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NAVTEQ NORTH AMERICA, LLC
222 MERCHANDISE MART
SUITE 900, PATENT DEPT.
CHICAGO, IL 60654

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Asta Khayakh, et. al. :
Application No. 10/651,091 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. N0172 US :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 12, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed March 9, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications for processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

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OFFICE OF PETITIONS

In re Application of
Merlin Hughes
Application No. 10/651,107
Filed: August 29, 2003
Attorney Docket No: KEL01 P-122
Title: Processing XML Node Sets

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed November 14, 2007 to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on February 23, 2007. 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 May 24, 2007. A Notice of Abandonment was mailed on October 4, 2007.

This petition is hereby **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) 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). 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 present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

This application is being referred to Technology Center AU 2167 for appropriate action by the Examiner in the normal course of business on the reply received

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: Jeffrey T. Gedeon
Rader, Fishman & Grauer PLLC
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304

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BAKER BOTTS, LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Takeshi Hoshida, et al.	:	
Application No. 10/651,125	:	DECISION GRANTING PETITION
Filed: August 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 064731.0344	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 26, 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 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Takeshi Hoshida	: DECISION ON REQUEST FOR
Patent Number	: 7603045	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/651,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN, TX 78729

In re Application of :
Michel Zecri, et al. :
Application No. 10/651,128 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. SC0947ET :

This is a decision on the petition, filed June 30, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed December 12, 2005. A Notice of Abandonment was mailed on May 1, 2006. In response, on June 30, 2006, 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 corrected drawings; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Publications to oversee the review of the drawing filed June 30, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Kramer & Amado, P.C.
1725 Duke Street
Suite 240
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Prasad N. Golla	: DECISION ON REQUEST FOR
Patent Number	: 7606140	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/651,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1382** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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Tyco Technology Resources
4550 New Linden Hill Road
Suite 140
Wilmington DE 19808

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OFFICE OF PETITIONS

In re Application of
Kopf et al.
Application No. 10/651,137
Filed: August 28, 2003
For: OPTICAL SHORT-CIRCUIT INSERT AND OPTICAL SHORT-CIRCUIT PLUG
Attorney Docket No: 41118US
Pub. No.: US 2004/0081407 A1
Pub. Date: April 29, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on June 26, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication fails to list Rudolf Kunstmann and Miquel Seidenfaden as inventors on the front page of the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." 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.

The errors in omitting the two inventor's names on the front page of the publication are Office errors, but they are not material errors. The error in the inventorship does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

While each of the multiple Declarations provided by applicant listed each named inventor, the Declarations provided by applicant stated that only the third and fourth inventors were listed. To

[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).

avoid this type of problem in the future, Declarations that properly label the first, second, third and fourth inventors should be used.

On January 22, 2004, a Filing Receipt was mailed, which listed the inventor's names as "Pia Kopf , Einhausen, Germany" and "Joachim Hahn, Schmitten, Germany". To avoid this type of problem in the future, applicant's representative should a make request for a corrected filing receipt by mail or by using the facsimile number (703-746-9195) on the filing receipt.

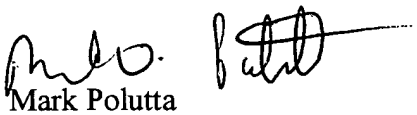
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



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

Enclosure: Corrected Filing Receipt

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WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Gerbec et al.	:	
Application No. 10/651,138	:	ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. 13447.9.2	:	

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**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DENNIS H. RAINEAR
CHIEF PATENT COUNSEL, ETHYL CORPORATION
330 SOUTH FOURTH STREET
RICHMOND VA 23219

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OFFICE OF PETITIONS

In re Application of :
William J. Colucci :
Application No. 10/651,140 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. EP-7601 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application filed January 18, 2005 and the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue filed January 31, 2005.

The petitions are **GRANTED**.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before January 5, 2005. On January 18, 2005, petitioner submitted a petition to revive under 37 CFR 1.137(b), along with the requisite issue fee. Thereafter, on January 31, 2005 petitioner filed a Request for Continued Examination (RCE), an Information Disclosure Statement (IDS) and a petition to withdraw from issue.

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the 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 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]

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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

The application is being forwarded to Technology Center AU 1751 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PLANO TX 75075

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NOV 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Kevin Michael Hardee et al :
Application No. 10/651,159 : DECISION ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 139112 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 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 September 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 18, 2007. Accordingly, the date of abandonment of this application is September 19, 2007. A Notice of Abandonment was mailed on October 4, 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

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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: Soejima et al.
Application No. 10/651,166
Filed: August 29, 2003
For: METHOD AND APPARATUS FOR ADJUSTING PERFORMANCE OF LOGICAL VOLUME COPY DESTINATION

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 23, 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

4/29/05

JC

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
10/651,181	08/28/2003	2818	1122	5649-1139	3	36	4

CONFIRMATION NO. 8479

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000011766095

Date Mailed: 01/26/2004

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

Applicant(s)

Sung-hoon Kim, Kyungki-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 02-77035 12/05/2002

If Required, Foreign Filing License Granted: 11/20/2003

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit devices including input/output line pairs and precharge circuits and related memory devices

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

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

BRACEWELL & PATTERSON, LLP
PO BOX 61389
HOUSTON, TX 77208-1389

In re Application of Albrecht et al. :
Application No. 10/651,191 : Decision on Petition
Filing Date: August 28, 2003 :
Attorney Docket No. HSJ920030133US1 :

This is a decision on the petition filed October 7, 2005. Although labeled a petition under 37 CFR 1.137(b), petitioner appears to be seeking withdrawal of the holding of abandonment under 37 CFR 1.181. Therefore, the petition will be treated under 37 CFR 1.181, and in the alternative, under 37 CFR 1.137(b).

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

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

Facts:

A non-final Office action was mailed February 24, 2005.

The Office received a terminal disclaimer on March 28, 2005. The cover sheet listed the application as application no. 10/651,067. The instant application and application no. 10/651,067 were filed by the same law firm, have the same filing date, and list the same inventors. As a result, the Office failed to recognize the paper should be directed to the instant application and it was matched with application no. 10/651,067. The $130 terminal disclaimer fee was credited to application no. 10/651,067.

The application became abandoned as of midnight on June 28, 2005.

A Notice of Abandonment was mailed September 12, 2005.

The terminal disclaimer matched with 10/651,067, has been transferred to the current application file. The terminal disclaimer fee has been credited to the instant application.

The terminal disclaimer filed with the instant petition perfectly matches the terminal disclaimer previously matched with application no. 10/651,067. The terminal disclaimer cover sheet filed with the instant petition appears to be an *exact* match except the application number is listed correctly as 10/651,191 on the terminal disclaimer cover sheet. A copy of both cover sheets is attached.

Discussion:

A review of the facts fails to indicate the holding of abandonment should be withdrawn. Therefore, the petition under 37 CFR 1.181 is dismissed.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore the petition under 37 CFR 1.137(b) is granted. The petition fee of $1,500 has been charged to petitioner's deposit account.

Technology Center Art Unit 2653 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

Attached: Copy of terminal disclaimer cover sheet listing application number 10/651,067
Copy of terminal disclaimer cover sheet listing application number 10/651,191

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: DAVID W. ALBRECHT ET AL.	§	Attorney Docket No. HSJ920030133US1 10/651,191
Serial No.: ~~10/651,067~~ 10/651,191	§	Examiner: GEORGE J. LETSCHER
Filed: 28 AUGUST 2003	§	
For: COMPLETELY CIRCUMFERENTIAL MOTOR BRACKET SHROUD FOR MOTOR HUB FLANGE OUTSIDE DIAMETER FOR HARD DISK DRIVE 10/651,191	§	Art Unit: 2653

SUBMISSION OF TERMINAL DISCLAIMER

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

Sir:

Pursuant to an Office Action dated February 24, 2005, with a shortened statutory period ending May 24, 2005, Applicants submit a Terminal Disclaimer along with the required fee for filing same.

Please charge the Terminal Disclaimer fee under 37 C.F.R. 1.20(d) of $130.00 to HITACHI Global Storage Technologies' Deposit Account No. 50-2587.

Respectfully submitted,

Michael E. Noe, Jr.
Registration No. 44,975
BRACEWELL & PATTERSON, L.L.P.
P.O. Box 61389
Houston, Texas 77208-1389
(512) 542-2135
ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING
37 CFR 1.8(A)

I hereby certify that this correspondence is, on the date shown below, 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.

March 22, 2005
Date

Signature: Betty J. Kirk

*bls 9-30-05
*BS 7/6/05
* HD 11-16-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: DAVID W. ALBRECHT ET AL.	§	Attorney Docket No. HSJ920030133US1
Serial No.: 10/651,191	§	Examiner: GEORGE J. LETSCHER
Filed: 28 AUGUST 2003	§	
For: COMPLETELY CIRCUMFERENTIAL MOTOR BRACKET SHROUD FOR MOTOR HUB FLANGE OUTSIDE DIAMETER FOR HARD DISK DRIVE	§	Art Unit: 2653

OIPE MP78 OCT 07 2005 PATENT & TRADEMARK OFFICE

SUBMISSION OF TERMINAL DISCLAIMER

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

Sir:

Pursuant to an Office Action dated February 24, 2005, with a shortened statutory period ending May 24, 2005, Applicants submit a Terminal Disclaimer along with the required fee for filing same.

Please charge the Terminal Disclaimer fee under 37 C.F.R. 1.20(d) of **$130.00** to **HITACHI Global Storage Technologies' Deposit Account No. 50-2587.**

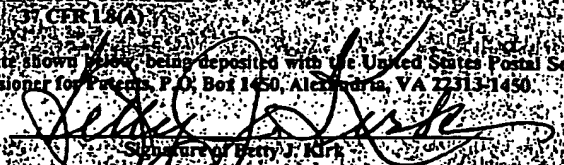
Respectfully submitted,

Michael E. Noe, Jr.
Registration No. 44,975
BRACEWELL & PATTERSON, L.L.P.
P.O. Box 61389
Houston, Texas 77208-1389
(512) 542-2135
ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING
37 CFR 1.8(A)

I hereby certify that this correspondence is, on the date shown below, 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.

March 22, 2005
Date



Signature of Betty J. Kirk

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ROOM AS437
LIBERTYVILLE, IL 60048-5343

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Thomas M. King :
Application No. 10/651,192 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No.: CS21383RL :

This is a decision on the petition filed May 9, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 11, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 12, 2006. Accordingly, a Notice of Abandonment was mailed April 20, 2006.

This matter is being referred to Technology Center 3661 for appropriate action on the amendment filed May 9, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston VA 20195

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/651,200 :
Filed: August 29, 2003 :
Attorney Docket No. 29250-000938/US :
For: METHOD AND ARRANGEMENT FOR DETECTING A RANDOM ACCESS CHANNEL PREAMBLE USING MULTIPLE ANTENNA RECEPTION IN A COMMUNICATION SYSTEM

ON PETITION
2631

This is a decision on the petition under 37 CFR 1.53(e) requesting that the application be accorded a filing date of August 29, 2003 with Figures 2-4 added by way of preliminary amendment. In the alternative, petitioners request consideration under 37 CFR 1.182 to accord the application a filing date as of the date Figures 2-4 were filed in the Office. Both petitions were filed in the same paper on December 9, 2003.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

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 29, 2003. However, on November 21, 2003, The Office of Initial Patent Examination mailed a "Notice to File Missing Part(s) of Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of August 29, 2003, and advising applicants that Figures 2-4 referenced in the specification appeared to have been omitted.

In response, the present petitions were filed.[1] Petitioners argue that Figures 2-4 are not necessary for the understanding of the invention and that Figures 2-4 do not constitute new matter. Therefore, petitioners request that the application maintain a filing date of August 29, 2003 with Figures 2-4 added to the original disclosure. In the event that a filing date of August 29, 2003 is not accorded to the application, petitioners request that a filing date of December 9, 2003 be accorded because December 9, 2003 is the date that Figures 2-4 were filed in the Office, but reserve the right to file a reconsideration petition under 37 CFR 1.53(e).

The mailing of the Notice permitted applicants 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

[1] Pursuant to petitioners' authorization, deposit account no. 50-1188 has charged two $130.00 petition fees.

submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In this case, petitioners do not assert that the missing figures were actually deposited in the PTO on August 29, 2003. Petitioners assert that Figures 2-4 are fully described in the specification filed on August 29, 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.

Applicants do not allege in the petition that Figures 2-4 were present in the Office on August 29, 2003, and a review of the file confirms that Figures 2-4 were not present on August 29, 2003. Therefore, the application cannot be accorded a August 29, 2003 filing date with the drawings of Figures 2-4 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, applicants may submit the drawings of Figures 2-4 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)). The Office will not *sua sponte* add Figures 2-4 without the filing of a formal preliminary amendment adding the figures and the examiner's review for new matter.

The petition under 37 CFR 1.53(e) is **DISMISSED**. The filing date of the application (without Figures 2-4) is still August 29, 2003.

In the alternative, petitioners request a later filing date for the application. The earliest date that can be accorded to this application with Figures 2-4 as part of the disclosure is December 9, 2003, 2003, which the date that Figures 2-4 were received in the Office.

This later filing date petition is grantable, but petitioners have reserved the right to reinstate the petition under 37 CFR 1.53(e). Flip flopping on the filing date may necessitate extra searches through prior art and additional Office actions. If the later filing date were accorded and then petitioners filed papers to change the filing date back to the original filing date, the Office could construe it as petitioners' failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application. Under 37 CFR 1.704(a), petitioners could lose patent term. Therefore, the petition under 37 CFR 1.182 is **DISMISSED**.

Petitioners must clarify their wishes. **EITHER** submit Figures 2-4 as a preliminary amendment to the drawings for the examiner to review for new matter **OR** submit a reconsideration petition under 37 CFR 1.182 clearly requesting the later filing date without reservation. As stated, the current filing date of the application without Figures 2-4 is August 29, 2003.

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 29, 2003**. Figures 2-4 will not be considered as part of the original disclosure.

Thereafter, the application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Winstead Sechrest & Minick P.C.
1201 Main Street
P.O. Box 50784
Dallas TX 75250-0784

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OFFICE OF PETITIONS

In re Application of	
Monty et al.	:
Application No. 10/651,220	:
Patent: 6,849,911	: NOTICE
Filed: August 28, 2003	:
Issued: February 1, 2005	:
Attorney Docket Number: 12179-P117US	:

This is a notice regarding your request filed on August 11, 2005.

The change in status to a large entity has been entered and made of record.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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PO BOX 37428
RALEIGH NC 27627

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JUN 18 2004

OFFICE OF PETITIONS

In re Application of	:
Whittle et al.	: DECISION DISMISSING
Application No. 10/651,225	: PETITION AS MOOT
Filed: August 28, 2003	:
Attorney Docket No. 5573-123DV	:

This is a decision on the petition under 37 CFR 1.10 filed on May 5, 2004, requesting that the above-identified application be accorded a filing date of August 28, 2003.

Petitioner alleges that the application was deposited in Express Mail service on August 28, 2003. In support, on May 5, 2004, petitioner supplied a copy of Express Mail receipt No. EV353608799US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file).

A review of the Office PALM records reveals that this application was previously accorded a filing date of August 28, 2003.

Therefore, the present petition is unnecessary and will be **dismissed as moot**.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of **August 28, 2003**, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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H. GORDON SHIELDS
7830 NORTH 23RD AVENUE
PHOENIX, AZ 85021

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OFFICE OF PETITIONS

In re Application of :
EVANS :
Application No. 10/651,228 :
Filed: August 29, 2003 :
Attorney Docket No. 0316 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Election of Species Requirement mailed November 30, 2004 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 December 31, 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 election and an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the election of species requirement of November 30, 2004 is accepted as having been unintentionally delayed.

While the reply to the election of species requirement appears *bona fide*, please note that the numbering of the claims in the amendment filed on June 13, 2005 with the petition does not comply with 37 CFR 1.121 and the procedures set forth in MPEP 714.II.C. For example in the amendment, claim 3, labeled "original," is actually a combination of original claims 3 and 4, and the renumbering of claims 10-29 to claims 12-31 on pages 4-8 does not correspond to the original claim numbering. Also, claims 1-33 were originally claimed, so any new claims should commence with claim 34 and not claim 32. Corrections should be made to the amendment to comply with 37 CFR 1.121.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3673.

Frances Hicks
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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OCT 0 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,193,593 :
Issue Date: March 20, 2007 :
Application No. 10/651,231 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 12732-165001 :

This is a decision on the petition filed April 24, 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**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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WASHINGTON, D.C. 20231
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Paper No.

In re Application of Erkis, T.	:
	: DECISION GRANTING PETITION
Application No. 10/651236	: TO REMAIL AN OFFICE
Filed: August 23, 2003	: COMMUNICATION AND RESTART
Attorney Docket No. 03173779	: PERIOD FOR REPLY

This is a decision on the petition filed on June 24, 2004, requesting that the Office communication faxed to the applicant on June 23, 2004 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on February 4, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the reply period had elapsed on the date of receipt. Furthermore, there is evidence in the Office official file that the Notice to File Missing Parts was never mailed as the office copy is not in the official image file.

Petitioner contacted the Office of Initial Patent Examination (OIPE) requesting a status update on the application. Petitioner expected a Notice to File Missing Parts but had not received said notice. OIPE faxed a copy of the notice to the applicant but since a copy of that notice is not in the official USPTO file, a replacement notice with a new period of reply should have been provided. When the office received the petition and copy of the notice faxed to petitioner, the office responded to the notice and mailed a Notice of Incomplete Reply. Petitioner was not responding to the original notice but rather, sent the copy of the notice as evidence. The Notice of Incomplete Reply was sent in error by the office.

Accordingly, the Office communication in question will be remailed and the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication.

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

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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
10/651,237	08/28/2003	1642	1366	ADS-5003USNP	3	33	6

CONFIRMATION NO. 9337

CORRECTED FILING RECEIPT

000027777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

OC000000016934695

Date Mailed: 09/02/2005

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)

Yixin Wang, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number **000027777**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/651,237

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Colorectal cancer prognostics

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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600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Toshiaka Kakii et al :
Application No. 10/651,255 : DECISION ON PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 050212-529

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 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 concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The concurrently filed amendment to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both

> applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. See In re deSeversky, supra. Note also MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for application number 10/417,345 along with a renewed petition under 37 CFR 1.78(a)(3), is 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 Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] Note 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of :
Toshiaki Kakii et al :
Application No. 10/651,255 : DECISION ON PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 50212-529 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 15, 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 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 Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2614 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.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/651,255	08/29/2003	2614	1256	50212-529	19	35	4

CONFIRMATION NO. 8054
CORRECTED FILING RECEIPT
OC000000022136939
OC000000022136939

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Date Mailed: 01/24/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Toshiaki Kakii, Yokohama-shi, JAPAN;
Yoichi Hata, Yokohama-shi, JAPAN;
Hisao Maki, Yokohama-shi, JAPAN;

Power of Attorney:

Arthur Steiner--26106

Domestic Priority data as claimed by applicant

This application is a CIP of 10/417,345 04/17/2003 ABN

Foreign Applications

JAPAN P2002-118321 04/19/2002
JAPAN P2003-099355 04/02/2003

If Required, Foreign Filing License Granted: 11/21/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/651,255

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Video editing system, video editing method, recording/reproducing method of visual information, apparatus therefor, and communication system

Preliminary Class

348

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.

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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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of
McDonough et al.
Application No. 10/651,282
Filed: August 28, 2003
Attorney Docket Number: TI-34766

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 18, 2006. 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 January 19, 2007. A Notice of Abandonment was mailed on May 1, 2007.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being referred to Art Unit 2611 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
John G. McDonough :
Application No. 10/651,282 : DECISION ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. TI-34766 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 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 Rejection mailed, November 28, 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 February 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 an Amendment After Non-Final, (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Charles P. Barber et al :
Application No. 10/651,298 : DECISION GRANTING PETITION
Filed: August 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 283_269CIP :

This is a decision on the petition, filed January 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 5, 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 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of an Information Disclosure Statement shown to have been submitted by Express Mail on January 22, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\651298.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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
Mehanna, et al.
Application No. 10/651,303
Filed: August 29, 2003
Atty. Dkt. No.: 06975-447001

DECISION GRANTING
PETITION UNDER 37 CFR
1.137(f)

This decision is in response to the petition under 37 CFR 1.137(f), filed June 20, 2007.

The petition is hereby **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35

U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 13, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to Technology Center Art Unit 2145 for examination in due course.

Alesia M. Brown
Pétitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/651,303	08/29/2003	Lara Mehanna	06975-447001

CONFIRMATION NO. 9022

26171
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 09/04/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/13/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/651,303	08/29/2003	Lara Mehanna	06975-447001

CONFIRMATION NO. 9022

26171
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 09/04/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/13/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Babak Akhlaghi
Fish & Richardson P.C.
1425 K Street N.W.
Washington, DC 20005

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Lara Mehanna et al.	:	
Application No. 10/651,303	:	DECISION ON PETITION
Filed: August 29, 2003	:	TO WITHDRAW
Attorney Docket No. 06975-739001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Babak Akhlaghi. Babak Akhlaghi 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

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
10/651,312	08/28/2003	Leslie C. Anderson	None

CONFIRMATION NO.
7843

MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

Date Mailed: February 16, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ■ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. □ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. □ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-308-9250, extension 410.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

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Leo H. McCormick Jr.
2112 Mishawaka Avenue
P.O. Box 4721
South Bend, IN 46634

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Hurwic, et al. :
Application No.10/651,337 : DECISION GRANTING PETITION
Filed: August 27, 2003 :
Attorney Docket No. 825-02-610 :

This is a decision on the petition filed March 25, 2004, requesting that the above-identified application retain the presently accorded a filing date of August 27, 2003, with page 21 of the specification as part of the original disclosure.

On August 27, 2003, the above-identified application was filed. On March 19, 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 27, 2003, however, page 21 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 25, 2004, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 17 pages of the specification and 7 pages of claims were received on August 27, 2003.

Upon review of the record, page 21 of the specification (which was part of the claims) has not been located among the application papers. However, the evidence is convincing that the application papers deposited August 27, 2003, included page 21, which was subsequently misplaced by the Office. Therefore, the application, including page 21 of the specification, was complete on filing and entitled to the presently accorded filing date of August 27, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

As petitioner did not include a copy of page 21 with the instant petition, petitioner will need to file a copy of page 21 along with a copy of this decision before the first action on the merits.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 27, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. 10/651,337
Applicant: Aleksander Hurwic, et al
Examiner:
Docket No. 825-02-610

Confirmation No. 8343
Filed: November 5, 2004
TC/A.U.: 3683
Customer No. 022118

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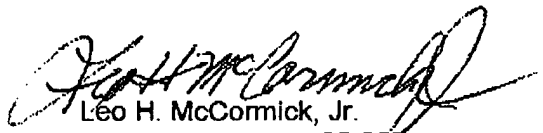
Missing Part

Sir:

In response to the Decision to the Petition dated April 30, 2004 please accept the attached Page 21 of this application. Page 21 was truncated when originally filed. In accordance with the petition, Page 21 is being filed prior to the first office action for this application.

Respectively Submitted
Aleksander Hurwic, et al



Leo H. McCormick, Jr.
Attorney, Reg. No. 25,897

Enclosures: Copy of Decision Granting Petition
Page 21 of Application

CERTIFICATE OF Transmission

I hereby certify that this document is being sent by fax to the following No. 571-273-8300 on October 2, 2007.

Leo H. McCormick, Jr.
Attorney, Reg. No. 25,897

PAGE 1/3 * RCVD AT 10/2/2007 11:58:20 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/11 * DNIS:2738300 * CSID:5742337369 * DURATION (mm-ss):01-26

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said that corresponds to the angular position of said barrel (70) associated with the parted position of said vertical branches (60,60') of said clip (38).

11. The arrangement (10) according to claim 10, characterized in that a drive means at an first end (72) of said barrel (70) comprise a socket (84), particularly a hexagon socket.

12. The arrangement (10) according to claims 11, characterized in that a retention bearing surface (62) for retaining said head (32) of the control rod (12) is shaped in the form of a portion of a sphere has a rear minimum diameter of which corresponds to the diameter of the control rod (12) and a maximum diameter of which is greater than the separation of the vertical parallel branches (60,60') of said clip (38) in a close-together position and smaller than a separation of said vertical parallel branches (60,60') of said clip (38) in a parted position.

13. The arrangement (10) according to claim 12, characterized in that said head (32) of said control rod (12) has a roughly frustaconical connecting portion (96) inserted axially between said spherical bearing surface (34) and said retention bearing surface (62) to allow the end of the control rod (12) to be introduced through the clip (38) without actuating the barrel (70).

14. The arrangement (10) according to Claim 3, characterized in that said intermediate part (20) further comprises a cylindrical peg (50) that forms said first holding means for holding said clip (38) and extends between said flanges (40) from the connecting wall (42) of the actuating bar (22) and into a groove (100) that receives a rounded elastic upper transverse connecting branch (64) of a hairpin clip (38), said hairpin clip (38) having roughly parallel vertical branches (61, 63) that straddle said control rod (12) and axially immobilize said head (32) against said boss (36).

15. The arrangement (10) according to claim 14, characterized in that said clip (38) has a rounded elastic upper transverse connecting branch (64) that extends over more than 180 degrees in a groove (100) of said cylindrical peg (50) to determine the vertical position of the clip (38).

16. The arrangement (10) according to claim 15, characterized in that said roughly parallel vertical branches (61, 63) of the clip (38) can move between a locked position in which they are elastically returned toward one

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Leo H. McCormick Jr.
2112 Mishawaka Avenue
P.O. Box 4721
South Bend, IN 46634

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APR 30 2004
OFFICE OF PETITIONS

In re Application of :
Hurwic, et al. :
Application No.10/651,337 : DECISION GRANTING PETITION
Filed: August 27, 2003 :
Attorney Docket No. 825-02-610 :

This is a decision on the petition filed March 25, 2004, requesting that the above-identified application retain the presently accorded a filing date of August 27, 2003, with page 21 of the specification as part of the original disclosure.

On August 27, 2003, the above-identified application was filed. On March 19, 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 27, 2003, however, page 21 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 25, 2004, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 17 pages of the specification and 7 pages of claims were received on August 27, 2003.

Upon review of the record, page 21 of the specification (which was part of the claims) has not been located among the application papers. However, the evidence is convincing that the application papers deposited August 27, 2003, included page 21, which was subsequently misplaced by the Office. Therefore, the application, including page 21 of the specification, was complete on filing and entitled to the presently accorded filing date of August 27, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

As petitioner did not include a copy of page 21 with the instant petition, petitioner will need to file a copy of page 21 along with a copy of this decision before the first action on the merits.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 27, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Yong Liu
13406 Elliott An Court
Herndon VA 20171

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Liu
Application No. 10/651,349
Filed: August 28, 2003
Title of Invention: Detecting Stylus Location Using Single Linear Image Sensor

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 19, 2006.

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 above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of March 7, 2006. An amendment was filed on March 30, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on April 5, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on May 6, 2006. A Notice of Abandonment was mailed on December 12, 2006.

Petitioner contends the Notice of Non-Compliant Amendment mailed on April 5, 2006 was not 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 of Allowance 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.

For example, if a three month period for reply was set in the nonreceived non-final office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived non-final office action must be submitted as documentary proof of nonreceipt of the Notice.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final office action may have been lost after receipt rather than a conclusion that the non-final office action was lost in the mail.

Where applicant is pro se applicant should demonstrate what system is in place upon receipt of communication from the USPTO. If applicant retains documents in a central location, makes use of a computer program or calendar such information as well as any accompanying evidence should be provided on renewed petition. A pro se applicant must state that the file was searched and that the communication in question has not been located. The Office is looking for applicant to make a showing that the communication was not lost after receipt.

If petitioner is unable to establish that the above, petitioner should 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

[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).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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13406 Elliott An Court
Herndon VA 20171

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OFFICE OF PETITIONS

In re Application of
Liu
Application No. 10/651,349
Filed: August 28, 2003

Title of Invention: Detecting Stylus Location Using Single Linear Image Sensor

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 25, 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 above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of March 7, 2006. An amendment was filed on March 30, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on April 5, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on May 6, 2006. A Notice of Abandonment was mailed on December 12, 2006.

Petitioner contends the Notice of Non-Compliant Amendment mailed on April 5, 2006 was not received. On renewed petition, applicant has provided a statement that the file jacket was searched and the Notice has not bee located. Petitioner has also provided a recitation of the documents located in the file.

However, the Office needs additional information regarding the system in place when mail from the Office is received before the petition can be granted. Petitioner should provide an explanation as to how mail is treated upon receipt by applicant. Lastly applicant should also state how applicant keeps track of due dates.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Yong Liu
13406 Elliott An Court
Herndon VA 20171

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OFFICE OF PETITIONS

In re Application of
Liu
Application No. 10/651,349
Filed: August 28, 2003

Title of Invention: Detecting Stylus Location Using Single Linear Image Sensor

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 18, 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 above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of March 7, 2006. An amendment was filed on March 30, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on April 5, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on May 6, 2006. A Notice of Abandonment was mailed on December 12, 2006.

Petitioner contends the Notice of Non-Compliant Amendment mailed on April 5, 2006 was not received. On renewed petition, applicant has provided a statement that the file jacket was searched and the Notice has not bee located. Petitioner has also provided a recitation of the documents located in the file. Petitioner has provided the process which is used when mail is received by the Office. Petitioner states mail is placed in an archive with other documents related to the patent application. Petitioner also states that he maintains a log and also a calendar which is hung on the wall in the kitchen.

Petitioner has provided sufficient evidence regarding the system in place. However petitioner has failed to provide documentary evidence as was required in the original petition decision. Petitioner should provide a copy of the log and the calendar (any additional documents petitioner may have) where the Notice would have been entered had it been received.

A copy of the April 5, 2006 Office action accompanies this decision 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 facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,349	08/28/2003	Yong Liu	Yong-Liu-0001	8367

7590 04/05/2006

Yong Liu
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Herndon, VA 20171

EXAMINER	
BECK, ALEXANDER S	

ART UNIT	PAPER NUMBER
2629	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/651,349	Applicant(s) Yong Liu	
	Examiner A. Beck	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on ***03/30/06*** is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

1. Amendments to the specification:
   - ☐ A. Amended paragraph(s) do not include markings.
   - ☐ B. New paragraph(s) should not be underlined.
   - C. Other _____.

☐ 2. Abstract:
   - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
   - ☐ B. Other _____.

☐ 3. Amendments to the drawings:
   - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
   - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
   - ☐ C. Other _____.

X☐ 4. Amendments to the claims:
   - X☐ A. A complete listing of all of the claims is not present.
   - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
   - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
   - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
   - E. Other **Claim 3 is missing.**

☐ 5. The amendment is unsigned or not signed in accordance with 37 CFR 1.4.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121 or 1.4, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.
Failure to timely respond to this notice will result in:
Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Chantae Dessau	**(571) 272-0518**
Legal Instruments Examiner (LIE)	Telephone No.

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Technology Center 2100

Frank DeRosa
Frommer Lawrence & Haug
745 Fifth Avenue 10th Fl.
New York, NY 10151

In re Application of: Helmars Ozolins)
Application No. 10/651361)
Attorney Docket No. 336001-2041)
Filed: August 29, 2003)
For: Portable Access Device)

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed August 04, 2008 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

August 29, 2003	The application identified above was filed with claims 1-17.
January 1, 2007	A non-final Office action was mailed rejecting claims 1-17.
June 6, 2007	Claims 1-7, 9 and 14-17 were amended and claims 8 and 10-13 were not. New claims 18-28 were filed. Claims 1-28 were pending
August 21, 2007	An Office action was mailed including (1) an election by original presentation with no elected claims, (2) withdrawal of claims 1-28 from consideration as non-elected due to the new claim language being drawn to an invention that is independent or distinct.
January 22, 2008	An amendment was filed adding cancelling claims 16-17 and 27-28, and not amending the remaining pending claims 1-15 and 18-26 and requesting reconsideration of the restriction requirement including a traversal of the restriction.

June 27, 2008 A Final Office action was mailed (1) repeating the explanation of the restriction requirement, and (2) responding to the request for reconsideration.

August 04, 2008 A formal Petition to withdrawn the restriction requirement was filed.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
> (1) From any action or requirement of any examiner in the ex parte prosecution

of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed a request for reconsideration prior to the petition of August 4, 2008, in accordance with 37 C.F.R. § 1.143.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

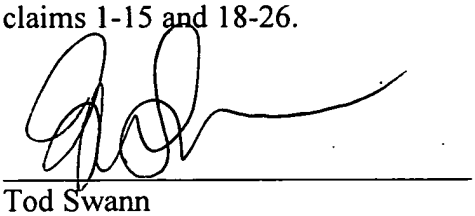
Thus, to be proper, (A) current claims 1-15 and 18-26 should be a distinct invention from originally filed claims 1-17; specifically, the inclusion of the "biometric sensor and the rewritable non volatile memory that stores the first and second program" must be patentably distinct from the programmed processor and biometric sensor included in the original claims and (B) there must be a serious burden on the examiner to search and consider these additional features beyond the search and consideration required for the original claims.

Since (1) the biometric sensor has already been search and considered see original claim 5 and (2) the programmed process inherently must include a program in some form a memory it would be obvious for this memory to be a rewriteable non volatile memory, the inventions listed in the restriction requirement are not distinct. There would be no serious additional burden on the examiner to consider these features.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-15 and 18-26.



Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3612

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,361	08/29/2003	Helmars E. Ozolins	336001-2041	8547

20999 7590 09/18/2008
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER	
JUNG, DAVID YIUK	

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
09/18/2008	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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WILMINGTON, DE 19805

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JUL 14 2006

OFFICE OF PETITIONS

In re Application of :
Walter Terschueren et al :
Application No. 10/651,363 : DECISION GRANTING PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. RD8421USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 (restriction requirement) mailed April 8, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 9, 2005. A Notice of Abandonment was mailed on December 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election to the April 8, 2005 restriction requirement; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of April 8, 2005 is accepted as having been unintentionally delayed.

The revocation and power of attorney document received on April 13, 2005 is not acceptable since the assignee has failed to comply with the provisions of 37 CFR 3.73(b). Compliance with 37 CFR 3.73(b) may be satisfied by completing the attached "Statement Under 37 CFR 3.73(b)." In view of the nonacceptance of the power of attorney, a courtesy copy of this decision is being mailed to petitioner herein.

This matter is being referred to Technology Center AU 1771 for appropriate in the normal course of business on the reply received February 15, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT TO PETITIONER: Statement under 37 CFR 3.73(b)

cc:

McCarter & English LLP
Citizens Bank Center
919 N. Market Street, Suite 1800
Wilmington, DE 19801-3033

PTO/SB/96 (12-05)
Approved for use through 07/31/2006. OMB 0651-0031
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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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No./Control No.: _____ Filed/Issue Date: _____

Entitled: _____

_____, a _____
(Name of Assignee) (Type of Assignee: 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 a true copy of the original assignment 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.

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of
William J. Borland
Application No. 10/651,367
Filed: August 29, 2003
Attorney Docket No. EL0495US NA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 8, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the non-final Office action mailed August 26, 2004, which set a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowed period, and the application became abandoned on November 27, 2004. It is noted that as of the date the instant petition was filed, the Office has not acknowledged the application as abandoned, but that the application is abandoned by operation of law.

Petitioner has established that the non-final Office action was not received.

Deposit account 04-1928 was charged twice for the instant petition fee. The fee of $500.00 will be credited, accordingly.

The file is now being forwarded to Technology Center 2800, GAU 2818 for further processing and treatment of the amendment filed August 8, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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401 NORTH MICHIGAN AVENUE
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CHICAGO IL 60611-4212

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OFFICE OF PETITIONS

In re Application of
Alexander B. Robertson
Application No. 10/651,369
Filed: August 29, 2003
Attorney Docket No. 200082-9009
Title: CIGARETTE EXTINGUISHING SYSTEM

DECISION ON PETITION

This is a decision on the Petition under 37 C.F.R. §1.182, filed January 29, 2004[1], to include Figures 8A and 8B with the original application papers filed August 29, 2003. Petitioner requests, in effect, that the "Notice to File Corrected Application Papers – Filing Date Granted (notice)," mailed November 24, 2003, be withdrawn.

The application was filed August 29, 2003. On November 24, 2003, Initial Patent Examination Division (OIPE) mailed a notice stating that the application had been accorded a filing date, but that Figures 8A and 8B, as described in the specification, appeared to have been omitted. The notice further stated that replacement drawings would be required.

In response, the present petition was filed January 29, 2003. Petitioner explains that Figures 8A and 8B were not missing on August 29, 2003. Instead, petitioner states that these two figures were included on the same drawing sheet as Figure 7, which the Office has received.

With the instant petition, Petitioner has submitted substitute drawings and the petition fee.

It is obvious from the file that no drawings were actually missing on August 29, 2003. The picture quality of the drawings which were submitted on filing is so poor that the portions of the drawings which should contain the labels are blackened-out. As such, neither of these two Figures are labeled. Therefore, the drawings were not missing; rather, the drawings were simply

1 The petition contains a certificate of mailing dated January 26, 2004. It is noted that January 24, 2004 fell on a Saturday.

mislabeled as a result of the applicant's filing error. However, the notice mailed November 24, 2003 was correct in stating that Figures 8A and 8B appeared to have been omitted. Therefore, the notice was properly mailed and will not be withdrawn.

The petition under 37 C.F.R. §1.182 is **DISMISSED**.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filed date of August 29, 2003, using the 4 sheets of drawings filed on that date. Receipt of replacement drawings filed January 29, 2004 is acknowledged.

Telephone inquiries *specific to this matter* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Jay Lucas
Interim Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

#4
DW

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Hector Franco
999-A La Mesa Terrace
Sunnyvale CA 94086

In re application of : **DECISION ON PETITION**
Hector Franco : **TO MAKE SPECIAL**
Application No. 10/651,384 : **(APPLICANT'S AGE)**
Filed: August 30, 2003 :
For: CUSTOMER SERVICE MANAGEMENT SYSTEM

This is a decision on the petition submitted on August 30, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of Mr. Franco's California driving license which indicates that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 2/20/04

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JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Ken Hamilton :
Application No. 10/651,387 : DECISION ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. HAMK-26,430 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 2, 2008. The Notice of Abandonment was mailed November 12, 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 $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3689 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES 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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Mail Date: 04/21/2010

Applicant	: Arthur A. Alfaro	: DECISION ON REQUEST FOR
Patent Number	: 7662185	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/651,390	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **993** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES FL 33114-1098

In re Application of :

Felix Carence Quintanar :
Application No. 10/651,399 : DECISION ON PETITION
Filed: August 29, 2003 : TO WITHDRAW
Attorney Docket No. 20040-1-0210 : 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 8, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Ury Fischer and those practitioners associated with application have been revoked by the assignee of the patent application on May 9, 2006. 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 first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Laurence H. Pretty, Esq.
Hogan & Hartson, L.L.P.
500 So. Grand Avenue
Suite 1000
Los Angeles, California 90071

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
10/651,399	08/29/2003	Felix Clarence Quintanar	20040-1-0210

CONFIRMATION NO. 9076

26135
LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES, FL 33114-1098

OC000000020867392

Date Mailed: 10/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2006.

- 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).

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/651,399	08/29/2003	Felix Clarence Quintanar	20040-1-0210

CONFIRMATION NO. 9076

OC000000020867443

26021
HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

Date Mailed: 10/17/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2006.

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.

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of

:

Bradley Biddick:

Application No. 10/651,409

: DECISION ON PETITION

Filed: August 29,2 003

:

Attorney Docket No. 069796-0003

This is a decision on petition under 37 CFR 1.137(b), filed December 20, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed May 15, 2006. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on August 16, 2006.

Form PTOL-85B, the issue fee payment were received on December 20, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: John Gavin MacDonald	: DECISION ON REQUEST FOR
Patent Number	: 7651989	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/651,421	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Fei Xie	: DECISION ON REQUEST FOR
Patent Number	: 7634254	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/651,428	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Technology Center 2100

W. Clark Jordan, Esq.
End II End Communications, Inc.
3428 Maryhurst Lane
Charlotte, NC 28226

In re Application of:
Mark P. PHILLIP et al.
Application No. 10/651,436
Filed: August 29, 2003
For: SYSTEM AND METHOD OF BROADBAND NETWORK OPTIMIZATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 12 April 2006 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 **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

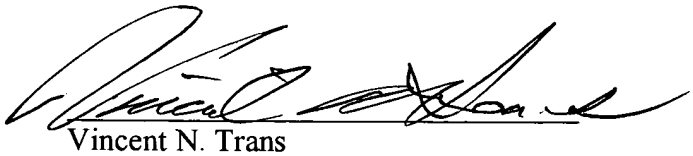
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission filed 12 April 2006 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularly requirement 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 are specifically distinguishable and patentable from the references provided pursuant to requirement (e) supra.

Applicant's petition failed to provide specific discussion on how the claimed subject matter is patentable over the references. A general statement "the reference does not disclose or suggest however, the cited system and method for optimizing communications comprising a module or process for determining a set of transmission variables associated with a first network device, where the set of transmission variable correspond to a maximum transmission capacity between the first network device and a last common node/optimization endpoint associated with a route from the first network device to a second network device" is not sufficient to meet the requirement (e) as set forth above.

Accordingly, the petition is **DISMISSED**. Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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ALEXANDRIA, VA 22313-1450
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JUL 19 2006

Technology Center 2100

James J. Bindseil
End II End Communications, Inc.
3428 Maryhurst Lane
Charlotte, NC 28226

In re Application of:
Mark P. PHILLIP et al.
Application No. 10/651,436
Filed: August 29, 2003
For: SYSTEM AND METHOD OF BROADBAND NETWORK OPTIMIZATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 27 June 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 12 April 2006 and 27 June 2006, together, meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of :
Dan et al. :
Application No. 10/651,453 : DECISION ON PETITION
Filed: august 29, 2006 : TO WITHDRAW
Attorney Docket No. 316082000103 : 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 30, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to has been revoked by the assignee of the patent application on December 22, 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 below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272- 1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, CANADA M5H 3-Y2

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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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Paper No. _____

Date : May 23, 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 D. Hempstead
Application No. :10/651,463
Filed :August 29, 2003

The above-identified application has been assigned Patent No. 6,896,169 and an issue date of May 24, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

"All reference to Patent No. 6,896,169 to George D. Hempstead of Washington for APPARATUS AND METHOD FOR FRICTION STIR WELDING UTILIZING A GROOVED PIN appearing in the Official Gazette of May 24, 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
George D. Hempstead :
Application No. 10/651,463 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 38190/268366 :

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 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) 272-3208.

The examiner of Technology Center AU 1725 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070110

DATE : January 10, 2007

TO SPE OF : ART UNIT 2812 10651492

SUBJECT : Request for Certificate of Correction on Patent No.: 7,064,053

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: Michael Lebentritt **Art Unit** 2812

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STEVEN SHATTIL
P. O. BOX 17355
BOULDER, CO 80308-0355

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Kristin Monday :
Application No. 10/651,528 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. KM-001 :

This is a decision in response to the petition, filed November 6, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On October 11, 2006, a Notice of Abandonment was mailed. In response, on November 6, 2006 the present petition was filed, followed by the requisite petition fee on January 18, 2007.

The petition is found to comply with the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 1655 for consideration of the response filed November 6, 2006.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 25 2005

TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re application of
Shuji Fujimoto
Application No. 10/651,536
Filed: August 29, 2003
For: METHOD FOR MANAGING LICENSE OF SOFTWARE PROGRAM IN STORAGE SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on April 7, 2005 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).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, 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 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/dcg: 7/11/05

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SAN FRANCISCO, CA 94111-3834

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of FUJIMOTO
Application No.: 10/651,559
Filing Date: August 29, 2003
For: METHOD FOR CONTROLLING STORAGE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed April 7, 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 April 7, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

Applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that references (1)-(4) cited in the petition will be considered by the assigned examiner.

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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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Eckhard Alt :
Application No. 10/651,562 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 10527-493003

This is a decision on the petition, filed November 20, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 22, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[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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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 :
Jones et al. :
Application No. 10/651,569 : DECISION ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. CRD5035 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 23, 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 May 24, 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 $1500.00; 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. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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 Christopher Bottorff at (571)272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received September 25, 2006.

David Bucci
Petitions Examiner
Office of Petitions

cc: Raymond M. Mehler
200 West Adams Street, Suite 2850
Chicago, Illinois 60606

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February 21, 2007

SNAPTRACK INCORPORATED
5775 More House Drive
San Diego, CA 92121-1714

Patent No.: 7151939 B2
Application No.: 10/651574
Inventor(s): Leonid Sheynblat
Issued: December 19, 2006
Title: **METHOD, APPARATUS, AND MACHINE-READABLE MEDIUM FOR PROVIDING INDICATION OF LOCATION SERVICE AVAILABILTY AND THE QUALITY OF AVAILABLE LOCATION SERVICES**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Patent No. 7,151,939 :
Issued: December 19, 2006 :
Application No. 10/651,574 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket Number: 030183 :

This is a decision on the petition, filed April 5, 2007, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of the assignee is SNAPTRACK INCORPORATED, and was incorrectly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for certificate of correction (and fee) was filed January 26, 2007 and dismissed in a decision mailed February 21, 2007 since the request was not accompanied by a petition under 37 CFR 3.81.

---

[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that SNAPTRACK INCORPORATED is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent. Since the fee for the certificate of correction was paid with the January 26, 2007 request, the certificate of correction fee in the amount of $100 paid with the instant request is an overpayment and will be credited back to deposit account no. 17-0026.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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2055 GATEWAY PLACE
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SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of :
Jagannathan Shiva Shankar, et al. :
Application No. 10/651,590 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 50325-0788 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2008, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed**, as the application has not been allowed.

A review of the file record fails to indicate that a Notice of Allowance and Fee(s) Due has been mailed, in accordance with 37 CFR 1.311. Accordingly, jurisdiction of the application remains with the primary examiner. See MPEP 1305. Since prosecution is not closed within the meaning of 37 CFR 1.114(b), the Request for Continued Examination (RCE) filed April 23, 2008, cannot be accepted.

Under the circumstances of this case, the $130 petition fee and the $810 RCE filing fee are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 2143 for treatment of the Information Disclosure Statement filed on April 1, 2008.

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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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of	:
Mark Jozef Albert Waer et al.	:
Serial No.: 10/651,604	: PETITION DECISION
Filed: August 29, 2003	:
Attorney Docket No.: 50304/012001	:

This is in response to the petition under 37 CFR 1.181, filed November 24, 2006, requesting entry of the amendment filed on September 25, 2006.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on July 20, 2005, acting on claims 1-22. Claims 1-6, 8-13 and 15-22 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-6, 8-13 and 15-22 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Claims 20-22 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Claims 1, 3, 4, 8, 10, 11 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Roche. Claims 1-14 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Pfleiderer. Claim 21 was rejected under 35 U.S.C. 103(a) as being unpatentable over Roche. Claim 21 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pfleiderer. Claims 1-5, 7-12, 14 and 20 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US 6,844,343.

Applicants filed a response on January 26, 2006, wherein claims 1, 3-8, 10-14 and 20-22 were amended, and claims 23-25 were added. Applicant replied to each ground of rejection appropriately.

The examiner mailed a Final Office action to applicants on March 29, 2006. Several rejection were withdrawn in view of the amendments. However, claims 20-22 were again rejected under 35 U.S.C. 112, first paragraph, for lack of enablement in regards to treating lupus, psoriasis, MS, or any of the other conditions mentioned in claim 20. Claims 1-6, 8-13 and 15-23 were newly rejected under 35 U.S.C. 112, first paragraph, for lack of written description. The rejection of claims 1-6, 8-13 and 20 under 35 U.S.C. 102(b) as being anticipated by Pfleiderer was maintained. The rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Pfleiderer was maintained. Claims 1-6, 20 and 24 were newly rejected under 35 U.S.C. 102(a) as being anticipated by Froehlich. Claims 8-13 and 25 were newly rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich. The rejection of claims 1-5 and 7-12 under the

judicially created doctrine of obviousness-type double patenting as being unpatentable over US 6,844,343 was maintained. Claim 24 was partly withdrawn from consideration as being drawn to a nonelected invention. Claims 7 and 14 were allowed. The examiner contended that applicants' amendment necessitated the new grounds of rejection.

Applicants filed a response After Final on July 3, 2006, wherein claims 1-6, 8-13 and 15-23 were canceled, and claim 24 was amended. Applicants responded to each outstanding rejection appropriately.

The examiner mailed an Advisory Action to applicants on August 4, 2006. The amendment filed July 3, 2006, was not entered because said amendment did not place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

Applicants filed a Notice of Appeal along with a second response After Final on September 25, 2006, wherein claims 1-6, 8-13 and 15-23 were canceled, and claim 24 was amended. Applicants responded to each outstanding rejection appropriately.

The examiner mailed a second Advisory Action to applicants on October 12, 2006. The amendment filed September 25, 2006, was not entered because the amendment raised new issues that would require further consideration and/or search. The examiner also noted that said amendment did not place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

This petition was filed November 24, 2006, requesting entry of the amendment filed on September 25, 2006.

DISCUSSION

Applicants contend that the examiner has failed to set forth sufficient grounds to refuse entry of applicants' amendment. Applicant contends that the Office has acknowledged that entry of the amendment would overcome all rejections of record. Thus, entry of the amendment would place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

Applicants are correct in that entry of the amendment would materially reduce or simplify the issues for appeal. In applicants' proposed amendment filed on September 25, 2006, claims 1-6, 8-13 and 15-23 were canceled. The cancellation of said claims would render the rejection of claims 1-6, 8-13 and 15-23 under 35 U.S.C. 112, first paragraph, for lack of written description, moot. The rejection of claims 1-6, 8-13 and 20 under 35 U.S.C. 102(b) as being anticipated by Pfleiderer would also be rendered moot. The rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Pfleiderer would be rendered moot. The rejection of claims 1-6 and 20 under 35 U.S.C. 102(a) as being anticipated by Froehlich would be rendered moot. The rejection of claims 8-13 under 35 U.S.C. 103(a) as being unpatentable over Froehlich would be rendered moot. The rejection of claims 1-5 and 8-12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US 6,844,343 would also be render moot. If applicants' proposed amendment was entered, claims 7, 14, 24 and 25 would be the only pending

claims. Claims 7 and 14 were previously indicated allowable by the examiner, however claim 7 was and still remains rejected for obvious double patenting. Thus indication of its allowability was in error. Entry of applicants' amendment would appear to materially reduce or simplify the issues for appeal.

The examiner, however, denied entry of applicants' amendment because it would have raised new issues that would require further consideration and/or search. The examiner asserted that while the amendment deletes the compounds disclosed in Froelich on which the rejection under 35 U.S.C. 102(b) was based, the amendment raised new issues under 35 U.S.C. 103(a) since claim 24 contains compounds that are structurally analogous to the compounds taught by Froelich.

Applicants argue the amendment to claim 24 deleted certain anticipated compounds from a recited list, thus making the claim allowable. However, this argument is not persuasive. Applicants' argument suggests that a reference applicable to a claim under 35 U.S.C. 102(b) should also automatically be applied under 35 U.S.C. 103(a) where the claim is a listing of individual compounds. Such is not normal Office practice. If applicants' amendment were to be entered, the examiner would not be able to maintain the rejection under 35 U.S.C. 102(b) of record and would be required to reopen prosecution to set forth a new rejection under 35 U.S.C. 103(a) over Froelich alone or combined with other references for closely related compounds which were not deleted from the claims. The requirements for applying a reference under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) are different and, thus, require different considerations. Further, the amendment does not address the rejection for obvious double patenting of claim 7 by filing a terminal disclaimer (although applicants appear to be of the opinion that this rejection does not apply to claim 7). The status of claim 7 needs to be clarified by the examiner.

In view of the above considerations the examiner's denial of entry of the amendment was proper.

DECISION

The petition is **DENIED.**

Any request for reconsideration must be filed within TWO (2) MONTHS of the mailing of this decision in order to be considered timely and should be directed to the undersigned at the address listed above.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600
wrd/pl

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of :
Albert Waer, et al. : LETTER RGARDING PATENT
Application No. 10/651,604 : TERM ADJUSTMENT
Filed: August 29, 2003 :
Atty. Dkt. No: 50304/012001 :

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 9, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed February 1, 2007, indicated that the patent term adjustment to date is 252 days. Applicants suggest that the adjustment of 252 days may be longer than appropriate.

The correct patent term adjustment (PTA) at the time of the allowance is 78 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 78 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the record reveals that an adjustment of 262 days in accordance with 37 CFR 1.1702(a)(1) can be attributed to the Office. At the time of allowance, there were no further delays attributable to the Office.

The adjustment of 264 days is properly reduced 98 days in accordance with 37 CFR 1.704(b) in connection with the reply to the non-final Office action filed January 26, 2006.

The adjustment of 264 days is further properly reduced 88 days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed September 25, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 78 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).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 8/27/2007

PALM INTRANET

Time: 15:03:45

PTA Calculations for Application: 10/651604			
Application Filing Date:	08/29/2003	PTO Delay (PTO):	354
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	102
Post-Issue Petitions:	0	Total PTA (days):	78
PTO Delay Adjustment:	-174		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	08/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		174	
68	08/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		174	
67	08/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	174		
51	02/01/2007	MAIL NOTICE OF ALLOWANCE			
50	02/01/2007	MAIL FORMAL DRAWINGS REQUIRED	90		27
49	01/31/2007	ISSUE REVISION COMPLETED			
48	01/31/2007	FORMAL DRAWINGS REQUIRED			
47	01/31/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	01/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
45	01/31/2007	NOTICE OF ALLOWABILITY			
44	01/27/2007	DATE FORWARDED TO EXAMINER			
43	01/17/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
42	01/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	01/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	01/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	01/04/2007	PETITION DECISION - DENIED			
38	11/24/2006	PETITION ENTERED			
37	10/12/2006	MAIL ADVISORY ACTION (PTOL - 303)			
36	10/02/2006	ADVISORY ACTION (PTOL-303)			
35	09/26/2006	DATE FORWARDED TO EXAMINER			
34	09/25/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
33	09/25/2006	NOTICE OF APPEAL FILED			

32	09/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	08/04/2006	MAIL ADVISORY ACTION (PTOL - 303)			
30	08/02/2006	ADVISORY ACTION (PTOL-303)			
29	08/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	07/10/2006	DATE FORWARDED TO EXAMINER			
27	07/03/2006	AMENDMENT AFTER FINAL REJECTION		4	25
26	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
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OFFICE OF PETITIONS

In re Application of
Alok Kumar Gupta, et al.
Application No. 10/651,625
Filed: August 28, 2003
Attorney Docket No. 020242

ON PETITION

This is a decision in response to the petition, filed October 26, 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 December 28, 2006. A Notice of Abandonment was mailed on July 31, 2007. In response, on October 26, 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 2611 for consideration of the response filed October 26, 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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LAUSON & ASSOCIATES
1334 PARK VIEW AVENUE SUITE 100
MANHATTAN BEACH CA 90266

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OFFICE OF PETITIONS

In re Application of	:	
Steven Feher	:	
Application No. 10/651,628	:	DECISION ON PETITION
Filed: September 2, 2003	:	
Attorney Docket No. 04-15048	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 13, 2006.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 3, 2005. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned by matter of law on February 4, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Notice of Allowance was mailed to the incorrect address. Petitioner points the Office's attention to a Power of Attorney and Change of Correspondence Address that was filed on December 22, 2004. It is obvious from reviewing the file that the Power of Attorney and Change of Correspondence Address was not entered, and that the Notice of Allowance was erroneously mailed to the incorrect address.

In view thereof, **the holding of abandonment is withdrawn.**

The Office mailed a new Notice of Allowance and Notice of Allowability on August 24, 2006.

The matter is being forwarded to the Office of Patent Publication to await Applicant's response to the Notice of Allowance mailed August 24, 2006.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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8th FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Nakano, et al.
Application No. 10/651,633
Filed: August 29, 2003
For: METHOD OF MAINTAINING A PLURALITY OF SNAPSHOTS, SERVER APPARATUS AND STORAGE APPARATUS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed July 2, 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 July 2, 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 reference 9, which merely recites the title and abstract) 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: 11/18/04

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TECHNOLOGY CENTER 2100

TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of : NAKANO ET AL.
Application No. 10/651,633
Filed: AUGUST 29, 2003
For: METHOD OF MAINTAINING A PLURALITY OF SNAPSHOTS, SERVER APPARATUS AND STORAGE APPARATUS

DECISION ON RECONSIDERATION OF PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the Request for Reconsideration filed January 25, 2005 of 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 July 2, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

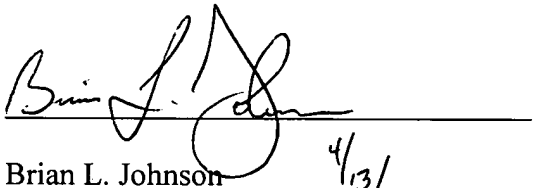
(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with 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 4/13/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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PO BOX 1319
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In re Application of :
SCOVILLE, Kimberly et al. :
Application No. 10/651,641 : DECISION ON PETITION
Filed: August 28, 2003 : TO WITHDRAW
Attorney Docket No. **2324.PIC.NP** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KIM SCOVILLE**
3091 NORTH 25 WEST
PROVO, UT 84604

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

In re Application of :
Greenfield, An, Trifonov, Vaugeois, and Slemon :
Application No.: 10/651,659 : DECISION ACCORDING
Filed: August 29, 2003 : RULE 47(a) STATUS
Attorney Docket No: 520001-2001 :
For: **METHODS OF SCREENING FOR COMPOUNDS THAT MODULATE TAFIA ACTIVITY, COMPOUNDS, AND METHODS OF USING THE COMPOUNDS**

This is in response to the petition under 37 CFR 1.47(a), filed May 23, 2005 (certificate of mailing dated May 19, 2005.)

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-identified application was filed on August 29, 2003, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on October 19, 2004, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. The petition under 37 CFR 1.47(a) was filed, responsively, on May 23, 2005, along with a request for an extension of time within the fifth month.

Petitioner has shown that inventor Slemon either cannot be located after a diligent effort or has constructively refused to join the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 50-0320 will be charged $70.00 for the outstanding amount due towards the petition fee. The fee for the instant petition is $200.00.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of
Roodman et al.
Application No. 10/651,674
Filed: August 29, 2003
Attorney Docket No. 214001-01028-3

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 29, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 19, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1641 for examination in due course.

Telephone inquiries concerning this decision should be directed to Liana Chase at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/651,674	08/29/2003	G. David Roodman	214001-01028-3

CONFIRMATION NO. 9316

003705
ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

OC000000012581210
OC000000012581210

Date Mailed: 05/10/2004

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/19/2004.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

In re Application of: NAGASHIMA,, et al.
Application No. 10/651,681
Filed: 29 August 2003

For: STORAGE SYSTEM CONTROL METHOD, STORAGE SYSTEM, INFORMATION PROCESSING SYSTEM, MANAGING COMPUTER AND PROGRAM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 1 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 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

6/24/05

GO

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June 2005

Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

In re Application of:
Robert W. Spurr et al.
Serial No.: 10/651,682
Filed: August 29, 2003
Attorney Docket No.: 78253BRRS

DECISION
ACCEPTING PAPERS

Serial No. 10/651,682 is a continuation of Serial No. 09/767,624. This is a decision accepting the response filed on March 14, 2005 for parent file Serial No. 09/767,624 as being timely filed for Serial No. 10/651,682.

A non-final Office action for Serial No. 10/651,682 was mailed to the applicant on August 17, 2004. The action set a 3 month shortened statutory period in which to respond. The response (an amendment; a petition for a 2 month extension; and an information disclosure statement) filed on March 14, 2005 includes a copy of a receipt bearing a PTO stamp indicating a January 24, 2005 date of receipt. The receipt lists an "Amendment; 2 mo. Extension of Time; and Copy of Disclosure Statement-Supplemental" as being received at the PTO on January 24, 2005 for parent file Serial No. 09/767,624.

The copies of the amendment, extension of time and information disclosure statement filed on March 14, 2005 each include a Certificate of Mailing dated January 17, 2005 so if the original response was received on January 24, 2005 and if it was for Serial No. 10/651,682, it would have been a timely response to the Office action of August 17, 2004 under the provisions of 37 C.F.R. § 1.8(a) and 37 C.F.R. § 1.136(a).

Although each of the copies include the parent file's information (i.e., Serial No., filing date, etc.), the copy of the amendment states that it is in response to the Office action mailed August 17, 2004 so the correct identification of the response could have been quickly discovered, especially considering the parent file issued as a patent on on October 21, 2003. Thus, if the original response was timely filed it could have been accepted for Serial No. 10/651,682 under the provisions of MPEP § 502.

The original response is not in the file record and cannot be located. However, M.P.E.P.

§ 503 states that "a postcard receipt which itemizes and properly identifies the items 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 original response was timely filed but was lost or misplaced after receipt thereof.

The response of March 14, 2005 is hereby accepted as being timely filed and accepted for entry in the file record of Serial No. 10/651,682. The examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of :
Joanne Young Hee Kwak Kim, et. al. :
Application No. 10/651,690 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 112461-016 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed on November 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; 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 1644.

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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Joseph A. Fuchs
Rockey, Depke & Lyons, LLC
233 S. Wacker Drive
Suite 5450, Sears Tower
Chicago IL 60606-6306

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of:	:	
Kim et al.	:	
Application No. 10/651690	:	DECISION GRANTING
Filing or 371(c) Date: 08/28/2003	:	PETITION UNDER
Title of Invention:	:	37 CFR § 1.183
DIAGNOSIS AND TREATMENT OF	:	
INFERTILITY	:	

This Decision is in response to the "Petition Under 37 C.F.R. § 1.183 to Suspend the rules Requiring the Signature of all Inventors for a Declaration of Combined Inventorship Under 37 C.F.R. § 1.131," filed December 26, 2007.

The petition is **dismissed**.

The application as-filed identified three inventors as the inventive entity: Joanne Young Hee Kwak-Kim, Alan E, Beer and Alice Gilman-Sachs. A final Office action was mailed on November 29, 2007. Applicant filed a petition to revive the application under 37 CFR 1.137(b), along with a Request for Continued Examination ("RCE") and the Combined Declaration of Joint Inventors Under 37 C.F.R. § 1.131, executed by co-inventors Young Hee Kwak-Kim and Alice Gilman-Sachs only. In a non-final Office action mailed June 27, 2007, Applicant was advised that, "[u]pon consultation with the Office of Legal Affairs, it was determined that a statement under 37 CFR 1.131 that a coinventor is dead is not sufficient to establish the death of the coinventor in the prosecution history." Applicant was advised that, since no rule exactly fits the situation, Applicant should file a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.131 to the extent that it requires the signature of inventor Beers, indicating that inventor Beer is deceased.

The present petition

Applicant files the present petition and states that the inventor Beer is deceased, and includes Supplemental Declarations of inventors Young Hee Kwak-Kim and Alice Gilman-Sachs, stating that inventor Beer is deceased. No other evidence to support the assertion that inventor Beer is deceased has been provided.

The MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides

> The following parties may make an affidavit or declaration under 37 CFR 1.131:
> (A) All the inventors of the subject matter claimed.
> (B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
> (C) If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.
> (D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).
>
> Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims.
> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

This section states that a party qualified under 37 CFR 1.42, 1.43 or 1.47 may make the affidavit when it is not possible to produce the affidavit or declaration of the inventor, and that waiver of the signature requirement of the unavailable inventor may be demonstrated by proof similar to that required in a petition under 37 CFR 1.47..

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant asserts that the inventor is deceased. 37 CFR 1.42 states: "Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

The MPEP 409.01, Death of Inventor, proves instructive. It states:

> When a joint inventor of a pro se application dies after filing the application, the living joint inventor(s) must submit proof that the other joint inventor is dead. Upon submission of such proof, only the signatures of the living joint inventors are required on the papers filed with the USPTO if the legal representative of the deceased inventor does not intervene. If the legal representative of the deceased inventor wishes to intervene, the legal representative must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.64 (e.g., stating that he or she is the legal representative of the deceased inventor and his or her residence, citizenship and post office address). Once the legal representative of the deceased inventor intervenes in the pro se application, the signatures of the living joint inventors and the legal representative are required on the papers filed with the USPTO.

MPEP 409.01

This section explains that when joint inventors are attempting to file papers in an application where one of the joint inventors in the application has died, before the papers may be accepted, proof that the other inventor is dead is required.

As stated supra, in a non-final Office action mailed June 27, 2007, Applicant was advised that, "[u]pon consultation with the Office of Legal Affairs, it was determined that a statement under 37 CFR 1.131 that a coinventor is dead is not sufficient to establish the death of the coinventor in the prosecution history." However, in the present petition, Applicant has not submitted any proof other than a statement in the petition, that the nonsigning inventor is dead, above that which was previously submitted.

Cocnlusion

Applicant must submit proof that the other joint inventor is dead. Acceptable proof would consist of a copy of a Death Certificate, or a statement from the legal representative of the deceased inventor, that the inventor is deceased[1]. The petition is dismissed without prejudice.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.
One who has reason to believe that he or she will be appointed legal representative of a deceased inventor may apply for a patent as legal representative in accordance with 37 CFR 1.42.
Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.
409.01(b) Proof of Authority of Administrator or Executor
The Office no longer requires proof of authority of the legal representative of a deceased or incapacitated inventor. Although the Office does not require proof of authority to be filed, any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he or she is properly acting in such a capacity.

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,620,948
EDWARD R.W. ROWE, et al.
Issue Date: November 17, 2009
Application No. 10/651,697
Filed: August 29, 2003
Atty Docket No. 07844-592001

: DECISION ON REQUEST
: FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT and

: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ten (910) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ten (910) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred ten (910) 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 : 7620948 B1

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Rowe

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 570 days

Delete the phrase "by 570 days" and insert – by 910 days--

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HOVEY WILLIAMS LLP
2405 Grand Boulevard
Suite 400
Kansas City MO 64108

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Trimmer, et al. :
Application No. 10/651,712 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 34074 :
For: CONCRETE FORM CONNECTING APPARATUS

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on January 11, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed May 16, 2005, which set a period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) and having received no reply, the Office considered the application abandoned on August 17, 2005. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Petitioners allege that the May 16, 2005 non-final Office action was not received at the proper correspondence address of record and therefore, the application is not really abandoned. The undersigned finds this assertion completely convincing because the Office action in question was mailed to an incorrect address. It appears that due to typographical error during data entry, the correspondence address associated with this file was:

HOVEY WILLIAMS LLP
Suite 400
2450 Grand
Kansas City MO 64108

The street address listed above does not match the street address listed on the originally filed declaration.

It is noted that the correspondence address on the declaration is:

HOVEY WILLIAMS LLP
2405 Grand
Suite 400
Kansas City MO 64108

While the word "Boulevard" is left off the correspondence address listed on the declaration, the street number is clearly 2405, not 2450 – the erroneous one that the Office entered into its databases. A review of the transmittal letter would have revealed that the street name is "Grand Boulevard".

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The correspondence address has been corrected in Office databases.

After the mailing of this decision, the application will be returned to Technology Center AU 3673 for consideration of the response to the May 16, 2005 Office action. Remailing the Office action is not necessary.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SAN DIEGO, CA 92130

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Roehr Thomas et al :
Application No. 10/651,753 :
Filed: August 29, 2003 :
Attorney Docket No. 14580-026001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 21, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 22, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2818 for consideration of the Request For Continued Examination received on July 11, 2005.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MAR 30 2005

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBINS & PASTERNAK LLP
1731 Embarcadero Road, Suite 230
Palo Alto CA 94303

In re Application of
Miller et al
Serial No. : 10/651,761
Filed : 29 August 2003
Attorney Dkt No. : 8325-0032

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 27 September 2004, to request reconsideration of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on August 29 2003 under 35 USC 111(a) with 11 claims. A requirement for restriction was mailed on March 25, 2004, requiring the restriction of the 11 claims to one of three inventions under 35 U.S.C. 121 as follows:

Group I, Claims 1-9, drawn to a composition comprising two or more engineered zinc finger proteins, classified in class 530, subclass 350;

Group II, Claim 10, drawn to a nucleic acid molecule, classified in class 536, subclass 23.1; and

Group III. Claim 11, drawn to a method of modulating (using protein), classified in class 514, subclass 12.

Applicants responded to the above restriction requirement on May 28, 2004 by amending claims 10 and 11 and adding new claims 12-19 and electing with traverse Group II, claim 10 and new claims 12-19.

The traversal of the restriction between Groups I and II was found non-persuasive in a first office action on the merits mailed on June 6, 2004. The restriction requirement made FINAL and claims 10 and 12-19 were rejected under 35 U.S.C. 112 second paragraph and claims 10, 12-15 and 18-19 were rejected under 35 U.S. C. 102.

Applicants responded to the first office action on the merits on September 29 2004, by amending claims 1 and 10, presenting arguments and by filing this petition.

DISCUSSION

The application, prosecution history and petition have been reviewed and carefully considered. Independent claims 1 and 10, corresponding to Groups I and II, respectively are reproduced below, as currently pending.

1. A protein comprising two or more engineered zinc finger domains. wherein
(i) each zinc finger domain comprises at least two zinc fingers
(ii) each zinc finger domain binds a different target site and
(iii) the protein modulates expression of two or more endogenous genes.

10. A nucleic acid molecule encoding a protein comprising two or more engineered zinc finger domains. wherein
(i) each zinc finger domain comprises at least two zinc fingers
(ii) each zinc finger domain binds a different target site and
(iii) the protein modulates expression of two or more endogenous genes.

The petition under 37 C.F.R. 1.144, provides two arguments for withdrawing the restriction between polynucleotide and polypeptide:

(1) the protein could not be made by a materially different process (synthesis or purification from a natural source) and
(2) the polynucleotide could not be used for a materially different purpose (probe)

The arguments regarding the restriction requirement between the protein of group I and the polynucleotide of group II are acknowledged, however, found moot for the following reason. In view of the application, the prosecution history, the inventions as claimed and the specific state of the prior art regarding the claimed subject matter, a concurrent search and examination of the nucleic acid invention with the protein invention in this particular application would not impose serious burden. The restriction requirement between Groups I and II is withdrawn.

Applicants further traverse the restriction requirement between non elected Groups I and III, on the basis that the claims of Group I recite non-naturally-occurring proteins and the office has provided no reason why one would seek to obtain an antibody to a non-naturally-occurring protein. Applicants submit that the previously presented "materially different process, such as the process of making antibodies" is a throwaway utility to support the unfounded assertion that the claims of Group I are a separate invention.

This above argument is acknowledged in its completeness, however, found non-persuasive. As previously stated by the examiner,

> Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or

(2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the product can be used in a materially different process, such as the process of making antibodies.

Reasons as to why one would seek to obtain an antibody to a non-naturally occurring protein are not pertinent to whether or not such is a "materially different process" of use of the claimed product. Regardless of such, antibodies generated to the claimed proteins could as the above discussed claimed nucleic acids be used to ascertain whether or not a cell has been successfully transformed with the claimed nucleic acid product.

Applicants submit that no reasons for restriction between Groups II and III have been provided by the Office and therefore these groups should be rejoined. In response, applicants attention is directed to the examiner's previous statement:

> '"The product of the invention of Group II is not used in the method of the invention of Group III, thus is patentably distinct".

It is noted that the above reasons for the distinction between Groups II and III was made in the previous restriction requirement, and that in the amendment of 5/28/2004, applicants amended claim 11, such that it was no longer drawn to a method of using the composition of Group I, but rather a method of using the nucleic acid of Group II.

The newly submitted claim11 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

> Inventions II and claim 11 or new Group IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the product can be used in a materially different process, such as such as nucleic acid hybridization assay.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

It is noted, where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of M.P.E.P. 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted

after final rejection are governed by 37 C.F.R. 1.116; amendments submitted after allowance are governed by 37 C.F.R. 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 C.F.R. 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See M.P.E.P. 804.01.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.144 to withdraw the previous restriction requirement is **GRANTED IN PART** as follows:

The restriction requirement between Group I, protein and Group II, nucleic acid is withdrawn.

The restriction requirement between Group I, protein and Group III (original claim 11, method of using the protein) is maintained.

The restriction requirement between Group I, protein and Group IV (amended claim 11, method of using the nucleic acid) is made and maintained.

Any request for consideration of this petition decision must be filed within TWO (2) MONTHS of the mailing date of this decision.

The application will be forwarded to the examiner for consideration of the response filed 29 September 2004 and preparation of an action consistent with this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600.

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Jeffrey Miller	: DECISION ON REQUEST FOR
Patent Number	: 7361635	: RECALCULATION of PATENT
Issue Date	: 04/22/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/651,761	: OF WYETH
Filed	: 08/29/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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MARY L. MILLER
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
POST OFFICE BOX 37428
RALEIGH, NC 27627

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JUN 20 2006

OFFICE OF PETITIONS

In re Application of :
Evelyn Durmaz, et al. :
Application No. 10/651,768 : DECISION ON REQUEST
Filed: August 29, 2003 : TO WITHDRAW
Attorney Docket No. 5051-615 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed August 1, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mary L. Miller and all the attorneys/agents associated with Customer No. 20792 was revoked by the assignee of the patent application on August 23, 2005. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed March 14, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: ALSTON & BIRD LLP
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 :
Michael T. Milbocker : DECISION ON PETITION
Application Number: 10/651797 :
Filing Date: 08/30/2003 :
Attorney Docket Number: W29 US :

This is a decision in reference to the "Petition to the Commissioner for Withdrawal of Holding of Abandonment under 37 CFR 1.181," filed on 8 March, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the non-final Office action mailed on 31 March, 2006, 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 30 October, 2006.

Petitioner states that the Office action was not received because it was incorrectly mailed to an old address. Specifically, petitioner states that a change of correspondence address was filed on 1 December, 2003, but was never entered by the Office.

On 1 December, 2003, petitioner filed an Information Disclosure Statement (IDS), the cover letter of which stated, in pertinent part: "Please change the correspondence address for this application to: Promethean Surgical Devices, 3 Gill St., #G, Woburn, MA 01801." The paper was signed by the patent practitioner of record, Francis H. Kirkpatrick. However, the correspondence address was not changed. The non-final Office action mailed on 31 March, 2006, was returned as undeliverable on 13 April, 2006, and the Notice of Abandonment mailed on 30 October, 2006, was returned as undeliverable on 6 November, 2006.

MPEP 601.03 states, in pertinent part:

> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

As such, petitioner's argument is well taken. The showing of record is that the Office erred in mailing the non-final Office action mailed on 31 March, 2006, to the previous address rather than the current correspondence address as specified in the paper filed on 1 December, 2003. As the error in mailing is due to an Office error, it is appropriate to remail the Office action to the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application is referred to the Technology Center Technical Support Staff for remailing of the Office action mailed on 31 March, 2006. The time period for reply to the Office action will be reset to run from the date the Office action is remailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DI Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,986,935	2006-01-17	10/651,806	2003-08-29	P-73879-US

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	/Morey B. Wildes/	Date (YYYY-MM-DD)	2010-03-23
Name	Morey B. Wildes	Registration Number	36968

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6986935
Issue Date: January 17,2006
Application No. 10651806
Filed: August 29,2003
Attorney Docket No. 331.1036

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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FROM DIRECTORS OFFICE

JUL 21 2005

TECHNOLOGY CENTER 3600

Glenn and Sharon Pignato
6125 South 030 West
Wolcottville, IN 46795

In re application of
Glenn Pignato
Application No. 10/651,832 : DECISION ON REQUEST
Filed: August 28, 2003 : FOR WITHDRAWAL OF
For: PIER ADJUSTING MECHANISM AND : ATTORNEY
METHOD FOR FACILITATING THE ADJUSTING
AND LEVELING OF A PIER PLATFORM

This is a decision on the request filed on September 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.**

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; Randall J. Knuth, 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 7/19/05

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Cartledge, et. al. :
Application No. 10/651,840 :
Filed: August 29, 2003 :
Attorney Docket No. 52817/292102 :

DECISION ON REQUEST 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 by facsimile transmission on September 22, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Kilpatrick Stockton, LLP has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed December 14, 2005, that requires a reply from the applicant.

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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: HELLER EHRMAN, LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

UNITED STATES PATENT AND TRADEMARK OFFICE

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Larry A. Roberts
Kilpatrick Stockton LLP
1100 Peachtree St Ste 2800
Atlanta, GA 30309

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of
Richard G. Cartledge et al
Application No. 10/651,851
Filed: August 29, 2003
Attorney Docket No. 52817/292099

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 22, 2005.

The request is **NOT APPROVED as moot**.

A review of the file record indicates that the power of attorney to Larry A. Roberts and the attorneys associated with the Customer Number 38952 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center Art Unit 3738

David Bucci
Petitions Examiner
Office of Petitions

cc: HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
Richard G. Cartledge et al :
Application No. 10/651,852 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 52817/291339 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 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 April 13, 2004. 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 June 14, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Cartledge, et. al. :
Application No. 10/651,852 :
Filed: August 29, 2003 :
Attorney Docket No. 52817/291339 :

DECISION ON REQUEST 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 by facsimile transmission on September 22, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Kilpatrick Stockton, LLP has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed February 17, 2006, that requires a reply from the applicant.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci dp for

cc: HELLER EHRMAN, LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

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In re Application of	:	
Chalom B. SAYADA	:	
Application No. 10/651,865	:	DECISION ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. **4354-106-CIP**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 20, 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 November 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/255,189, filed October 21, 2008.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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EMULEX DESIGN & MANUFACTURING CORPORATION
C/O MORRISON & FOERSTER LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES CA 90013

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APR 23 2008

In re Patent No. 7149823	:	
Issue Date: 12/12/2006	:	
Application No. 10/651887	:	ON PETITION
Filed: 08/29/2003	:	
Attorney Docket No. 491442001200	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.323" filed on May 2, 2007, under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3131. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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SHELTON CT 06484-6212

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
KALAJO, et al. :
Application No. 10/651,910 : DECISION GRANTING PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **875.0124.U1(US)** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2617 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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755 PAGE MILL ROAD
PALO ALTO, CA 94304

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
SOLLICITO, et al.	:	
Application No. 10/651,923	:	DECISION GRANTING PETITION
Filed: August 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **324212006600**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 26, 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 August 11, 2008 *cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2167 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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ZAGORIN O'BRIEN GRAHAM LLP
7600B N. CAPITAL OF TEXAS HWY.
SUITE 350
AUSTIN TX 78731

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MAR 25 2005

OFFICE OF PETITIONS

Applicant: Gonikberg
Appl. No.: 10/651,924
Filing Date: August 29, 2003
Title: EFFICIENT PARTIAL RESPONSE EQUALIZATION
Attorney Docket No.: 1005-0006-1
Pub. No.: US 2004/0037374 A1
Pub. Date: February 26, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on April 16, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains an error on the front page of the publication in that the wrong assignee is listed, and errors in paragraph [0008] as the symbols in the formula "-∞;∞" are misprinted as "-∝,∝" and paragraph [0050] as the publication incorrectly starts a new paragraph after "determined by . . ." for the sentence starting with "If the number . . ."as it is supposed to be in the same paragraph.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error on the front page of the patent application publication, wherein the assignee name is improperly listed as "Broadcom Corporation" is not an Office mistake, as the Application Data Sheet (ADS) submitted with the application listed the assignee as "Altocom, Inc. now Broadcom Corporation," thus it is not a material error under 37 CFR 1.221(b). The supplemental ADS submitted by applicant on February 13, 2004, was not received in time to change the assignee information printed on the front page of the publication, which published on February 26, 2004.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error with starting a new paragraph with "If the number . . ."is not a material error under 37 CFR 1.221(b), as it is a minor typesetting error. Furthermore, the mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The typographical error in the formula in paragraph [0008] identified by applicant is not a material mistake as required by 37 CFR 1.221(b). The mistake is not a material mistakes as required by 37 CFR 1.221(b) because the error is not readily apparent from the Office records. The text of the formula as originally filed by Applicant is of a poor quality and difficult to read. The punctuation marks (; and [) used in the formula over-lap or touch the formula symbols making it difficult to read. Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

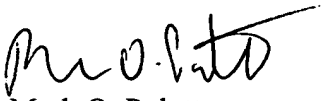
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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ZAGORIN, O'BRIEN & GRAHAM, L.L.P.
SUITE 870
401 WEST 15TH STREET
AUSTIN TX 78701

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FEB 22 2005

OFFICE OF PETITIONS

Applicant: Gonikberg
Appl. No.: 10/651,924
Filing Date: August 29, 2003
Title: EFFICIENT PARTIAL RESPONSE EQUALIZATION
Attorney Docket No.: 1005-0006-1
Pub. No.:.US 2003/0037374 A1
Pub. Date: February 26, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on April 16, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains an error on the front page of the publication in that the wrong assignee is listed, and errors in paragraph [0008] as the symbols in the formula "-∞;∞" are misprinted as "-∝,∝" and in paragraph [0050] the publication incorrectly starts a new paragraph after "determined by . . ." for the sentence starting with "If the number . . ."as it is supposed to be in the same paragraph.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error on the front page of the patent application publication, wherein the assignee name "Altocom, Inc." is listed as "Broadcom Corporation" is not clearly an Office mistake, as the Application Data Sheet (ADS) submitted with the application listed the assignee as "Altocom, Inc. now Broadcom Corporation," thus it is not a material error under 37 CFR 1.221(b). The error with starting a new paragraph with "If the number . . ."is not a material error under 37 CFR 1.221(b), as it is a minor typesetting error. Furthermore, the mistakes do not affect the

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The typographical error in the formula in paragraph [0008] identified by applicant is not a material mistake as required by 37 CFR 1.221(b). The mistake is not a material mistakes as required by 37 CFR 1.221(b) because the error is not readily apparent from the Office records. The text of the formula as originally filed by Applicant is of a poor quality and difficult to read. The punctuation marks (; and [) used in the formula over-lap or touch the formula symbols making it difficult to read. Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Makoto Nakamura, et al.	:	
Application No. 10/651,953	:	DECISION GRANTING PETITION
Filed: September 2, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7398/80572	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 17, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 16, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Keiji Satoh	:	DECISION ON PETITION
Application No. 10/651,954	:	UNDER 37 CFR 1.78(a)(3)
Filed: September 2, 2003	:	
Attorney Docket No. 1341.1029C	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed July 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on September 2, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed

application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 2683 for appropriate action on the amendment filed July 28, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D), page 200-59 and 200-60 (Rev. 2. May. 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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JEN JANG CO., LTD
P.O. BOX NO. 6-57
JUNGHE
TAIPEI, 235
TAIWAN

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of
Yen-Chao Su
Application No. 10/651,973
Filed: September 2, 2003
Title of Invention: MULTI-PURPOSE PEN

ON PETITION

This is a decision on the petition filed May 3, 2005, 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 June 24, 2004, for failure to file a timely response to the non-Final Office Action mailed March 23, 2004, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed October 19, 2004. 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 argues that a search of the file jacket and docket records, wherein receipt of the Office Action mailed March 23, 2004 would have been filed had it been received, was conducted and provides a copy of the docket report to show that the Notice was not received.

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 March 23, 2004, 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 3751 for a re-mailing of the non-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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTON BOGGS LLP
2550 M STREET NW
WASHINGTON, DC 20037-1350

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Jerry C. Nims :
Application No. 10/652,025 : DECISION ON PETITION
Filed: September 2, 2003 :
Attorney Docket No. 011908.0102 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received July 8, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Douglas J. Dellinger et al. :
Application No. 10/652,048 : DECISION ON PETITION
Filed: August 30, 2003 :
Attorney Docket No. 10031261-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2007. Accordingly, the date of abandonment of this application is January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
Douglas J. Dellinger et al :
Application No. 10/652,054 : ON PETITION
Filed: August 30, 2003 :
Attorney Docket No. 10031130-1 :

This is a decision on the petition filed January 11, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 1, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 2, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Gordon Stewart
5301 Stevens Creek Blvd., MS
Sabta Clara, CA 95051

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Gary Parnes	: DECISION ON REQUEST FOR
Patent Number	: 7602805	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/652,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 05/18/2010

Applicant : Gary Parnes
Patent Number : 7602805
Issue Date : 10/13/2009
Application No: 10/652,060
Filed : 08/29/2003

: 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 **1731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-11-05

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6890504

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.

Should inventors be added?

EVA JAMES

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:

Inventors failed to petition the change in inventorship (see 37 CFR 1.324). No petition filed. Documents filed are attachments required when filing a petition (37 CFR 1.324(6)).

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1621

SPE

1621
Art Unit

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NASA/MARSHALL SPACE FLIGHT CENTER
LS01/OFFICE OF CHIEF COUNSEL
MSFC AL 35812

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Ahmed et al.	:	
Application No. 10/652,083	:	DECISION GRANTING PETITION
Filed: 26 August, 2003	:	
Atty Docket No. MFS-31905-1	:	

This is a decision on the petition filed on 23 January, 2004, which is treated as a petition requesting that the above-identified application be accorded a filing date of 26 August, 2003, with Pages 11, 12, and 13 of the specification as a part of the original disclosure.

On 26 August, 2003, the application was filed.

On 24 November, 2003, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 26 August, 2003, but that Pages 11, 12, and 13 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 23 January, 2004, the present petition and Pages 11, 12, and 13 of the specification were filed. Petitioners argue that Pages 11, 12, and 13 were filed with the other application papers on 26 August, 2003, and that Pages 11, 12, and 13 of the specification were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioners' postcard receipt was supplied with the petition. The postcard receipt, which shows an Office-date stamp of 08/26/03, and the above-identified application number, acknowledges receipt of, *inter alia*, 18 pages of specification (including one (1) page of abstract). Petitioners request that the application, including Pages 11, 12, and 13 of the specification, be accorded a filing date of 26 August, 2003.

Upon review of the record, no Pages 11, 12, and 13 of the specification deposited on 26 August, 2003, have been located among the application papers. However, the evidence is

convincing that the application papers deposited on 26 August, 2003, included Pages 11, 12, and 13 of the specification, which were subsequently misplaced in the USPTO. Therefore, the application, including Pages 11, 12, and 13 of the specification, was complete on filing and entitled to a filing date of 26 August, 2003.

In view of the above, the petition is granted. The application will be processed with the copies of Pages 11, 12, and 13 of the specification supplied with the present petition. Since this petition was due to an error on the part of the USPTO, the fee of $130.00 charged with the present petition is unnecessary and will be credited to counsel's deposit account, No. 14-0116.

The "Notice" mailed on 24 November, 2003, was sent in error and is hereby withdrawn.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 26 August, 2003, using the application papers filed on that date, and the copies of Pages 11, 12, and 13 supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No.

FARRIS LAW, P.C.
5291 COLONY DRIVE NORTH
SAGINAW MI 48638

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APR 17 2008

OFFICE OF PETITIONS

In re Application of :
Roy L. Wolschlager et al. :
Application No. 10/652,089 : DECISION ON PETITION
Filed: August 29, 2003 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.137(B)
2517.3032.001 :
Title: TOOL REPLENISHING :
APPARATUS :

This is a decision on the petition filed September 7, 2007, pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application.

The concurrently submitted change of correspondence address has been entered and made of record.

The petition pursuant to 37 C.F.R. § 1.137(b) 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 and Issue Fee Due, mailed June 7, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time are permitted for transmitting issue fees[1]. Accordingly, this application became abandoned on September 8, 2006. A Notice of Abandonment was mailed on October 9, 2006.

A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

1 See MPEP § 710.02(e).

(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);
(2) 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;
(3) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the issue and petition fees, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

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[2]. 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

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 any further action(s) of Petitioner.

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LAW OFFICE OF KENNETH P. KROHN
1902 WRIGHT PLACE
CARLSBAD, CA 92008

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TECHNOLOGY CENTER R3700

In re Application of
Richard Scott Weston
Application No. 60/407,783
Filed: September 3, 2002
Attorney Docket No. 115.11b

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2004, to revive the above-identified provisional application.

The petition is **GRANTED**.

The above-identified provisional application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice) mailed September 24, 2002. 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 provisional application became abandoned on November 25, 2002. A Notice of Abandonment was mailed on July 30, 2003.

Please note, thought the provisional application is revived by the instant decision, the provisional application shall not be regarded as pending after twelve months from its filing date.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

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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80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Underbrink et al.	:	
Application No. 10/652,111	:	DECISION ON PETITION
Filed: 08/29/2003	:	
For: FOLDING SINK ASSEMBLY	:	

This is a decision on the renewed petition filed on 25 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper Appeal Brief in response to the Notice of Appeal filed on 28 January, 2005. An appeal brief was filed on 11 April, 2005, with a one (1) month extension of time. However, the Examiner found that the brief was defective. On 17 June, 2005, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed, which set a one (1) month shortened period for reply. In response, on 27 June, 2005, a response was filed. On 23 August, 2005, a Communication Re: Appeal was mailed stating that the

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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 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)).

appeal was dismissed because a complete new brief was not filed in compliance with 37 CFR 41.37 and the Notification of Non-Compliant Appeal Brief. An additional appeal brief was filed on 12 September, 2005. However, on 22 March, 2007, the Board of Patent Appeals and Interferences issued an Order Remanding to the Examiner, stating that the application appeared abandoned because the appeal brief was not timely filed within the period specified by 37 CFR 41.37(a)(1), or the extendable period pursuant to 37 CFR 1.136(a).

The application is being forwarded to Technology Center 3751 for consideration of the Appeal Brief filed with the present petition.

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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Gerald E. Helget
Briggs and Morgan, P.A.
80 South Eighth Street
2200 IDS Center
Minneapolis, MN 55402

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AUG 31 2005

Director's Office
Group 3700

In re Application of : DECISION ON PETITION
John Underbrink : TO MAKE SPECIAL
Serial No. : 10/652,112 : (INFRINGEMENT)
Filed : August 29, 2003 :
For : **FOLDING SINK**

This is a decision on the petition under C.F.R. § 1.102(d) filed September 27, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 27, 2004, includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
rt/ 8/29/05

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MAR 10 2010

OFFICE OF PETITIONS

Jason W. Johnson
Dority & Manning, PA
POBOX 1449
Greenville SC 29602

In re Application of :
Huang, et al. : DECISION ON PETITION
Application No. 10/652,126 :
Filed: August 29, 2003 :
Atty. Dkt. No.: 19,255 :

This is a decision on the petition under 37 CFR 1.181, filed April 8, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit at a proper reply to the final Office action mailed September 2, 2008. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed March 31, 2009.

Petitioners allege non-receipt of the final Office due to the Office's failure to mail it to the correct correspondence address. Petitioner argues that on June 13, 2006, applicants submitted a proper change of correspondence address.

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 change of correspondence address referenced by petitioners was received by the Office on June 15, 2006.

In view thereof, the petition to withdraw the holding of abandonment is hereby GRANTED. The holding of abandonment is WITHDRAWN and the Notice of Abandonment is VACATED.

Petitioners are advised that the accompanying power of attorney has not been entered into the record. The power of attorney seeks to appoint more than ten attorneys. The appointment of more than ten attorneys can only be done by Customer Number. See, MPEP 402.

This application is being forwarded to Group Art Unit 3761 for processing of the request for continued examination that accompanied the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG VA 23188

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OFFICE OF PETITIONS

In re Application of :
Frederick James Diggle :
Application No. 10/652,127 : DECISION ON PETITION
Filed: August 30, 2003 :
Attorney Docket No. 03-BS016(BS030112) :

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE PTO OF ITEM CONSIDERED AS OMITTED BY THE PTO - FIGURES 2-7 AND 9-11", filed June 1, 2005, to accord the above-identified application a filing date of August 30, 2003, with Figures 2 - 7 and 9 - 11 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on August 30, 2003. However, on May 25, 2005, the Initial Patent Examination Division mailed Applicant a "Notice of Omitted Item(s) in a Nonprovisional Application". Applicant was notified that the application papers had been accorded a filing date; however, Figures 2 - 7 and 9 - 11 of the drawings appeared to have been omitted.

In response, Applicant filed the instant petition. Accompanying the petition was a copy of Figures 2 - 7 and 9 - 11 of the drawings. Applicant maintains that the application as originally filed included these drawing figures. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "10 SHEETS OF DRAWINGS - FORMAL - FIGURE Nos. 1 - 12" as enclosed, bearing a United States Patent and Trademark Office date-stamp of August 30, 2003, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition fee will be refunded under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of August 30, 2003, using the application papers received in the Office on that date and Figures 2 - 7 and 9 - 11 of the drawings as re-supplied on petition filed June 1, 2005, and for indication in Office records that 10 sheets of drawings were present on filing.

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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BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG, VA 23188

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In re Patent No. 6,981,571 :
Issue Date: January 3, 2006 :
Application No. 10/652,127 : ON PETITION
Filed: August 30, 2003 :
Attorney Docket No. BS030112 :

This is a decision on the petition filed June 22, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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
10/652,155	08/28/2003	3624	750	IGTECH.0111P	3	1	1

CONFIRMATION NO. 2362

CORRECTED FILING RECEIPT

OC000000011979638

000032856
WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS, NV 89128

Date Mailed: 02/26/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rick Rowe, Incline Village, NV;

Domestic Priority data as claimed by applicant

This application is a CON of 09/921,716 08/03/2001 ABN which is a CIP of 09/497,788 02/03/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/19/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for facilitating monetary and reward transactions and accounting in a gaming environment

Preliminary Class

705

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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: George B. Raad	: DECISION ON REQUEST FOR
Patent Number	: 7634623	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/652,160	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Hara, et al.
Application No. 10/652,161
Filed: 28 August 2003
For: CLUSTER COMPUTING SYSTEM AND ITS FAILOVER METHOD

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 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 7/15/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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OFFICE OF PETITIONS

In re Application
Fred Monroe
Application No. 10/652,180
Filed: August 29, 2003
Attorney Docket No. **03-841**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed February 10, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1289 to 1548 days, in part 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 patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of

allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
Vaschillo et al.
Application No. 10/652,214
Filed: August 29, 2003
Attorney Docket No.
MS303847.1/MSFTP448US

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 15, 2007. Petitioner has also requested that the petition fee under 37 CFR 1.17(m) be waived.

This petition is hereby **Dismissed**.

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)." This is **not** 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 a final Office Action which was mailed on August 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on October 20, 2006. An Advisory Action mailed on March 12, 2007, informed applicants the application was not placed in condition for allowance. No extensions of time were obtained under 37 CFR 1.136(a). Accordingly, this application became abandoned on November 24, 2006. This decision precedes the mailing of a Notice of Abandonment.

The Office notes:

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee

must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing(and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Although a general authorization to charge 50-1063 was provided on petition, Marisa J. Zink is not an authorized user. Thus the Office is not in receipt of the required petition fee.

Accordingly, the petition has **not** been reviewed on its merits.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
Vaschillo et al.
Application No. 10/652,214
Filed: August 29, 2003
Attorney Docket No.
MS303847.1/MSFTP448US

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed October 16, 2007. Petitioner has requested that the petition fee under 37 CFR 1.17(m) be waived.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on August 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on October 20, 2006. An Advisory Action mailed on March 12, 2007, informed applicants the application was not placed in condition for allowance. No extensions of time were obtained under 37 CFR 1.136(a). Accordingly, this application became abandoned on November 24, 2006. This decision precedes the mailing of a Notice of Abandonment. A petition under 37 CFR 1.137(b) was dismissed on September 4, 2007.

The Office notes:

> 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing(and not merely the grant) of a petition under 37 CFR

1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Accordingly, the petition fee will not be waived.

Further, pursuant to 37 CFR 1.116(b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03(c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE, RCE fee and amendment , (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The Request for Continued Examination (RCE), and the amendment submitted on March 15, 2007 is being referred to Technology Center AU 2166 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

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CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
Vaschillo et al. :
Application No. 10/652,214 : DECISION ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. :
MS303847.1/MSFTP448US

This is a decision on the renewed petition under filed December 18, 2007 requesting that the petition fee under 37 CFR 1.17(m) be waived.

The petition is **dismissed.**

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on August 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on October 20, 2006. An Advisory Action mailed on March 12, 2007, informed applicants the application was not placed in condition for allowance. No extensions of time were obtained under 37 CFR 1.136(a). Accordingly, this application became abandoned on November 24, 2006. This decision precedes the mailing of a Notice of Abandonment. A petition under 37 CFR 1.137(b) was dismissed on September 4, 2007. A petition under 37 CFR 1.137(b) was granted on December 10, 2007.

The Office notes:

> 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that

> the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing(and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Accordingly, the petition fee will not be waived.

Since petitioner was not entitled to have the holding of abandonment withdrawn, the only manner in which the application could have been revived was with the submission of a petition which required a fee.

It should further be noted that a petition under 37 CFR 1.137(b) is not appropriate where the application is not abandoned.

Petitioner's argument that 711.03 does not make clear that the amendment after final rejection will not avoid abandonment is not persuasive. Pursuant to 37 CFR 1.116(b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03(c) is clear that an amendment after final rejection will not operate to avoid abandonment.

MPEP 711.03 (c) also states:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C.1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the

maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Petitioner should keep in mind, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay.

Petitioner also contends that the October 20, 2006 amendment was a complete reply to the final Office action. However, the examiner reviewed the amendment after final and determined the reply was not a complete reply in that it did not place the application in condition for allowance and raised new issues that would require further consideration or search.

The application is being referred to Art Unit 2166 for processing in the normal course of business.

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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SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Vaschillo et al. :
Application No. 10/652,214 : DECISION ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 13768.1373 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 23, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 23, 2009. Accordingly, the application became abandoned on February 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

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MOTOROLA INC/ W4 - 39Q
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048-5343

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of :
ARNESON, et al. :
Application No. 10/652,217 : DECISION ON PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **CS22449RL** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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 22, 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)(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 November 23, 2006.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted November 21, 2006.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO CA 94111-4067

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JUL 22 2004

OFFICE OF PETITIONS

In re Application of
Ron Rohrbach et al.
Application No. 10/652,230
Filed: August 28, 2003
Attorney Docket Number: 7210555003-3221000

ON PETITION

This is a decision on the petition filed May 18, 2004, to establish prior receipt of items considered to be omitted and in response to the Notice of Incomplete Reply mailed April 2, 2004. This petition is treated under 37 CFR 1.182.

The application was filed August 28, 2003 however, on November 21, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice To File Missing Parts of Nonprovisional Application stating *inter alia* that the application had been accorded a filing date of March 18, 2003 but that Figure 6 described in the specification (description and claims) appeared to have been omitted from the application.

In response, on March 19, 2004, with a two month extension of time request, a petition under 37 CFR 1.47 was filed but without a response to the omitted items section of the Notice mailed November 21, 2003. Therein, a Notice of Incomplete Reply was mailed April 2, 2004. With the present response, petitioner asserts that Figure 6 was deposited with the original application papers and that the instant application is a divisional of application no. 09/834,581, which is a divisional of parent application serial no. 09/422,039, both of which included a copy of Figure 6.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

However, The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[1] To allow one to

[1] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules.

Thus, the petition to accept Figure 6 as having been filed upon application is **DISMISSED**.

The petition filed on May 18, 2004, is accompanied by six (6) sheets of drawings containing Figures 1-6 with a request that Figures 1-6 be accepted as having been filed on the date of the petition, (August 28, 2003).

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings 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 drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Accordingly, the petition is inappropriate and is subject to dismissal.

The application will be processed and examined using only the application papers present on the filing date of August 28, 2003. The one (1) sheet of drawings containing Figure 6, supplied with the present petition will not be processed or examined, but will be retained in the application file.

A preliminary amendment adding the sheet containing new drawings of Figures 6 should be filed prior to the first Office action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 28, 2003, using only the application papers filed on that date.

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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THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO CA 94111-4067

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Ron Rohrbach, et al. :
Application No. 10/652,230 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 7210555003-3221000 :

This decision is in response to the petition filed March 19, 2004, under 37 CFR 1.47(a).

The petition is **DISMISSED** as involving moot issues.

The present application filed August 28, 2003 is a divisional of application 09/834,581 filed April 12, 2001 (now Patent 6,623,715 issued September 23, 2003). The application was filed without the signatures of all the named inventors. Specifically, the signatures of joint inventors Hendricks, LeClaire and McGeever were missing. A Notice of Incomplete Reply was mailed April 3, 2004 requiring, *inter alia*, the signatures of the non-singing inventors.

The instant petition under 37 CFR 1.47(a), in response to the Notice, alleges that copies of the application was sent to Mr. Hendricks, Mr. LeClaire and Mr. McGeever and that they refused to sign the oath or declaration. The response also included copies of the oath or declaration executed by Mr. Hendricks, Mr. LeClaire and Mr. McGeever in the parent application, 09/834,581.

Pursuant to 37 CFR 1.63:

> (d)(1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application provided that:
>
> (i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;
>
> (ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;
>
> (iii) The specification and drawings filed in the continuation or

divisional application contain no matter that would have been new matter in the prior application; and

(iv) A copy of the executed oath or declaration submitted under this paragraph for a continuation or divisional application must be accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application.

In view of the above, since petitioner has submitted copies of an executed oath or declaration by Mr. Hendricks, Mr. LeClaire and Mr. McGeever from the parent application, petitioner has complied with the provisions of 37 CFR 1.63(d), and therefore, no further consideration under 37 CFR 1.47(a) is necessary.

Accordingly, the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to the Office of Initial Patent Examination for continued pre-examination 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUITE 800
WASHINGTON, DC 20037

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AUG 15 2008

In re Patent No. 7,282,231 :
Issue Date: October 16, 2006 :
Application No. 10/652,249 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No. Q76852 :

This is a decision on the petition filed May 6, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct 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

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Docket No: Q76852
Katsuyuki YAMAMOTO, et al.	Group Art Unit: 1761
Appln. No.: 10/652,249	Examiner: Thuy Tran LIEN
Confirmation No.: 1865	Patent No.: 7,282,231
Filed: September 2, 2003	Issue Date: October 16, 2007

For: DOUGHNUT LIKE DUMPLING COVERED WITH SESAME SEED, DOUGH USED FOR PREPARING THE DOUGHNUT AND METHOD FOR THE PREPARATION OF THE DOUGHNUT

REQUEST UNDER 37 C.F.R. § 3.81(b) FOR ASSIGNEE NAME CORRECTION

08/15/2008 LDIEP1 00000003 194800 7282231

01 FC:1464 130.00 DA
02 FC:1811 100.00 DA

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee hereby petitions to correct the assignee's name on the above identified patent by issuing the Certificate of Correction filed herewith, and submits the following:

1. The Assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before the issuance of the patent.

2. The correct name of the assignee is indicated on the Notice of Recordation of Assignment Document dated March 29, 2004. As set forth in the Notice of Recordation of Assignment Document, a copy of which is attached, the Assignment was recorded in the USPTO on September 2, 2003 at Reel No. 014456 and Frame No. 0839, the correct assignee name is:

Adjustment date: 08/15/2008 LDIEP1
09/07/2004 INTEFSU 00000425 194800 10652249
01 FC:1464 130.00 CR
02 FC:1811 100.00 CR

Matsutani Chemical Industries Co., Ltd.

REQUEST UNDER 37 C.F.R. § 3.81(b)
FOR ASSIGNEE NAME CORRECTION
U.S. Appln. No.: 10/652,249

Attorney Docket No.: Q76852

3. The assignee name, as listed in item #3 on the Issue Fee Transmittal, submitted by Patentee's representative, includes an error.

4. The requisite fee under 37 C.F.R. § 1.17(i) of $130.00 is being charged to Deposit Account No. 19-4880 via EFS Payment Screen.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

Sheldon I. Landsman

Sheldon I. Landsman
Registration No. 25,430

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: May 6, 2008

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OFFICE OF PETITIONS

In re Application of :
Prithwish Basu et al :
Application No. 10/652,255 :
Filed: August 29, 2003 :
Attorney Docket No. BBNT-P01-253 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed January 14, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on August 27, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 26, 2005 accompanies this decision on petition.

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

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Craig J. Cox
NETRAKE CORPORATION
Suite 100
3000 Technology Drive
Plano TX 75074

COPY MAILED

APR 13 2004

OFFICE OF PETITIONS

In re Application of
James Deerman, Ramanamurthy Dantu,
Aswinkumar Rana and Keung Yue
Application No. 10/652,265
Filed: August 29, 2003
Attorney Docket No. NR-14
Title: REDUNDANCY SCHEME FOR
NETWORK PROCESSING SYSTEMS

DECISION REFUSING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is a decision on the Petition under 37 C.F.R. 1.47(a) filed February 18, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. 1.136(a).

The above-identified application was deposited on August 29, 2003, with an unexecuted declaration, and naming James Deerman, Ramanamurthy Dantu, Aswinkumar Rana and Keung Yue as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application," mailed November 21, 2003, applicants filed the instant petition under § 1.47(a)(and fee) and late surcharge under § 1.16(e). Accompanying the petition was a declaration executed by inventors Deerman, Rana and Yue. In addition, there was an added page to combined declaration signed by inventor Deerman on behalf of inventor Dantu. Rule 47 applicants assert that status under § 1.47(a) is proper because inventor Dantu refuses to join in the application. In support thereof, applicants submit the declarations of fact of Carrie Wrich and Craig Cox. This response was made timely by an accompanying petition (and fee) for extension for response within the first month.

A grantable petition under 37 C.F.R. 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after

diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Dantu. By declaration of facts, rule 47 applicants have provided evidence that non-signing inventor Dantu has refused to join in the application after having been presented with the application papers. However, the petition is not grantable because the declaration submitted does not satisfy requirement (2).

As to requirement (2), the declaration as submitted is not acceptable. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.
>
> (Emphasis added).

Here, applicants have submitted a statement indicating that the declaration is signed only by inventor Deerman on behalf of non-signing inventor Dantu. Whereas all of the available joint inventors must sign on behalf of inventor Dantu. Furthermore, the pages of the declaration should be properly numbered 1 of 6, 2 of 6, etc.; and the signature blocks should be properly numbered, where as here, applicants place each signature block on a separate page. A declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Dantu is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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.

Craig J. Cox
NETRAKE CORPORATION
Suite 100
3000 Technology Drive
Plano TX 75074

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
James Deerman, Ramanamurthy Dantu, :
Aswinkumar Rana and Keung Yue : DECISION ACCORDING STATUS
Application No. 10/652,265 : UNDER 37 C.F.R. § 1.47(a)
Filed: August 29, 2003 :
Attorney Docket No. NR-14 :
Title: REDUNDANCY SCHEME FOR :
NETWORK PROCESSING SYSTEMS :

This is a decision on the renewed petition under 37 C.F.R. 1.47(a) filed June 1, 2004.

The petition is **GRANTED**.

The above-identified application was deposited on August 29, 2003, with an unexecuted declaration, and naming James Deerman, Ramanamurthy Dantu, Aswinkumar Rana and Keung Yue as joint inventors. On February 18, 2004, in response to a "Notice to File Missing Parts of Nonprovisional Application," mailed November 21, 2003, applicants filed the initial petition under § 1.47(a)(and fee) and late surcharge under § 1.16(e).

However, by decision mailed April 13, 2004, the petition was dismissed for failure to submit an acceptable declaration. The declaration submitted was not properly executed by the available joint inventors on behalf of themselves and on behalf of the non-signing inventor.

On instant renewed petition, applicants submitted a new declaration. The declaration filed June 1, 2004, has been reviewed and found in compliance with § 1.47(a). Petitioner has now met all requirements for status under § 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 2143 in due course.

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
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RAMANAMURTHY DANTU
3103 KINGSBURY DRIVE
RICHARDSON, TX 75082

COPY MAILED

JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
James Deerman, Ramanamurthy Dantu, :
Aswinkumar Rana and Keung Yue : LETTER
Application No. 10/652,265 :
Filed: August 29, 2003 :
Attorney Docket No. NR-14 :
Title: REDUNDANCY SCHEME FOR :
NETWORK PROCESSING SYSTEMS :

Dear Mr. Dantu:

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

Craig J. Cox
NETRAKE CORPORATION
Suite 100
3000 Technology Drive
Plano, TX 75074

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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
10/652,267	08/29/2003	2661	984	13782US03	15	33	3

CONFIRMATION NO. 1986

CORRECTED FILING RECEIPT

OC000000011838835

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 02/05/2004

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)

Uri Elzur, Irvine, CA;
Frankie Fan, Diamond Bar, CA;
Steven B. Lindsay, Missioin Viejo, CA;
Scott S. McDaniel, Villa Park, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/408,617 09/06/2002
and claims benefit of 60/407,165 08/30/2002
and claims benefit of 60/456,260 03/20/2003
and claims benefit of 60/456,265 03/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2003

Projected Publication Date: 03/04/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method for TCP offload

Preliminary Class

370

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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CHICAGO IL 60661

MAIL

JUL 24 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JUL 24 2006
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
MAIL

In re Application of
Uri Elzur
Application No. 10/652,270
Filed: August 29, 2003
For: **METHOD AND SYSTEM FOR DATA PLACEMENT OF OUT-OF-ORDER (OOO) TCP SEGMENTS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 19, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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MAR 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Yoshida et al.	:	
Application No. 10/652,319	:	DECISION GRANTING PETITION
Filed: 2 September, 2003	:	
Atty's Docket No. Q77225	:	

This is a decision on the petition filed on 16 January, 2004, requesting that the above-identified application, including one 12 sheets of drawings, be accorded a filing date of 2 September, 2003.

On 2 September, 2003, the application was filed.

On 19 December, 2003, Initial Patent Examination Division mailed a Notice of Omitted Item(s) In a Nonprovisional Application stating that the application had been accorded a filing date of 2 September, 2003, but that, Figures 6-21 described in the specification appeared to have been omitted.

In response, on 16 January, 2004, 12 sheets of drawings containing Figures 6-21 and the present petition were submitted. Petitioners assert that the sheets of drawings containing Figures 6-21 was filed with the other application papers on 2 September, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' itemized, hand-stamped receipt was supplied on 16 January, 2004. The receipt paper shows an Office date stamp of 2 September, 2003, and identifies the application by the inventors' last names, attorney docket number, and invention title, and acknowledges receipt, *inter alia*, of 15 sheets of drawings. Petitioners request that the application, including the 12 sheets of drawings containing Figures 6-21, be accorded a filing date of 2 September, 2003.

A review of the record reveals that three (3) sheets of drawings, containing Figures 1-5 are located among the application papers deposited on 2 September, 2003. However, the evidence is

convincing that the application papers deposited on 2 September, 2003, included 15 sheets of drawings and that the 12 sheets of drawings containing Figures 6-21 were subsequently misplaced in the Office. Therefore, the application, including the 12 sheets of drawing containing Figures 6-21 as described in the specification, is entitled to a filing date of 2 September, 2003.

The "Notice" mailed on 19 December, 2003, is vacated.

In view of the above, the petition is granted. The $130.00 petition fee paid on 16 January, 2003, will be refunded to counsel's deposit account, No. 19-4880.

The application will be processed and examined, using the application papers filed on 2 September, 2003, and the 12 sheets of drawings containing Figures 6-21 supplied on 16 January, 2004.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 2 September, 2003, using the application papers filed on 2 September, 2003, and the 12 sheets of drawings containing Figure 6-21, supplied with the present petition, and for an indication in Office records that 15 sheets of drawings were present on filing.

Telephone inquires 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

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.
10/652,346	08/29/2003	Andrew Ching Tam	60717-300502 (SJO000019US	1303

48487 7590 01/27/2006

INTELLECTUAL PROPERTY LAW OFFICES
1901 SOUTH BASCOM AVENUE
SUITE 660
CAMPBELL, CA 95008

EXAMINER	
ELVE, MARIA ALEXANDRA	

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WK

Mailed:

In re application of	:	
Tam et al.	:	DECISION ON
Serial No. 10/652,346	:	PETITION
Filed: August 29, 2003	:	
For: APPARATUS FOR SLIDER CURVATURE MODIFICATION BY SUBSTRATE MELTING PRODUCED WITH A PULSED LASER BEAM	:	

This is a response to applicant's phone call on August 25, 2005. Applicant's request for the withdrawal of abandonment is being considered a PETITION UNDER RULE 37 C.F.R. 1.181(a). The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed July 22, 2005, be withdrawn since the applicant never received the restriction requirement that was mailed on December 04, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

On November 1, 2004, Applicants filed a Power of Attorney and a Change of Customer Number. The change was not processed and a different Customer number became associated with the application. The restriction requirement was mailed to that customer number .

The Petition is **GRANTED**.

The correct customer number (#48487) and address has been placed in the application, the abandonment withdrawn and the restriction requirement of 12/6/04 will be remailed and the time for response restarted.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Larry Guernsey
Intellectual Property Law Offices
1901 South Bascom Avenue
Suite 660
Campbell, CA 95008

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Markus Ulrich et al	:	
Application No. 10/652,360	:	DECISION GRANTING
Filed: August 29, 2003	:	PETITION
Attorney Docket No. 206,192	:	

This is a decision on the petition, filed November 22, 2006, requesting that the amendment (as well as the other accompanying correspondence) in response to the non-final rejection of April 12, 2006 be accorded a filing date of September 6, 2006, rather than the presently accorded date of September 7, 2006. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the correspondence was deposited in Express Mail Service on September 6, 2006. In support of this allegation, the petition is accompanied by a copy of Express Mail receipt No. ER05967215US (the same Express Mail number found on the original correspondence located in the official file) showing a postal receipt date stamp of September 6, 2006.

The evidence is convincing that the correspondence was deposited as "Express Mail" with the U. S. Postal Service on September 6, 2006. Accordingly, the correspondence is entitled to a filing date of September 6, 2006. It is noted, that, even with the filing date of September 7, 2006 given to the reply to the non-final Office action of April 12, 2006, the reply was still timely filed.

In view of the above, the petition is **GRANTED**.

Telephone inquiries relating to this decision should be directed the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
10TH FLOOR
NEW YORK, NY 10017-5621

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of :
Markus Ulrich et al :
Application No. 10/652,360 : DECISION ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 206,192 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 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 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 11, 2007. Accordingly, the date of abandonment of this application is April 12, 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. 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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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

OCT 31 2007

OFFICE OF PETITIONS

In re Application of :
Donald T. Haynie :
Application No. 10/652,364 :
Filed: August 29, 2003 :
Attorney Docket No. ATE-0002 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Corrected Application Papers was mailed on July 26, 2007, setting a non-extendable sixty (60) day time period within which to comply with the requirements of 37 CFR 1.84(a). No reply to the July 26, 2007 Notice was filed within the time period set.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of a set of black and white replacement drawings, (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of July 26, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

A Notice of Allowance and Fee(s) Due was mailed on August 21, 2007. Failure to timely pay the issue and publication fees required by the Notice will result in the abandonment of this application. This application is being referred to Publishing Division for further processing as the nature of the case requires.

Frances Hicks
Petitions Examiner
Office of Petitions

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Jeff A. Zablocki, et al. :
Application No. 10/652,378 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No.: 99,423-S1 :

This is a decision on the petition, filed February 13, 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 October 20, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1623 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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Mail Date: 04/20/2010

Applicant	: Kristofer Kjorling	: DECISION ON REQUEST FOR
Patent Number	: 7577570	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/652,397	: OF WYETH
Filed	: 08/29/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Shah et al.	:	DECISION ON PETITION TO
Application Number: 10/652411	:	WITHDRAW HOLDING OF
Filing Date: 08/29/2003	:	ABANDONMENT
Attorney Docket Number:	:	
50019.243US01/P05662	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 28, 2008, which, in view of petitioners' assertion that a response to the outstanding Office action was timely filed, is first treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The application was held abandoned for failure to timely submit a reply to the non-final Office action mailed on June 11, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on December 28, 2007, stating that no reply was received.

Petitioners assert that a response to the non-final Office action mailed on June 11, 2007, was timely filed on December 11, 2007, along with a three (3) month extension of time. A copy of the response has been filed with the petition.

On review, petitioners' contention is well taken. A review of the Office's Image File Wrapper for the subject application reveals that an amendment and petition and fee for a three (3) month extension of time, filed on December 11, 2007, in response to the non-final Office action mailed on June 11, 2007, is located therein.

As such, the showing of record is that a proper and timely response to the non-final Office action mailed on June 11, 2007, was filed on December 11, 2007.

The showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

Accordingly, as the holding of abandonment has been withdrawn, the petition to revive the application is unnecessary and will be dismissed as moot. The petition fee will be refunded to counsel.

The application is being referred to Technology Center Art Unit 2619 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DARBY & DARBY (Formerly Sacco & Associates)
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
Robert Bass et al :
Application No. 10/652,455 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket No. 0207510-US0 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/649,437.

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 $510 extension of time submitted with the petition on January 8, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert J. Sacco
Sacco & Associates P.A.
P.O. Box 30999
Palm Beach Gardens, FL 33420-0999

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Paper No.

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:	
Zheng et al.	:	DECISION ON
Application No. 10/652,461	:	PETITION
Filed: August 28, 2003	:	
Atty Docket No. 108298716US	:	

This is a decision on the "Petition Under 37 C.F.R. §1.47(a) to File Declaration under 37 C.F.R. §1.131 on Behalf of Nonsigning Inventor" filed August 29, 2006, which is being treated as a § 1.183 waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship[1].

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on August 28, 2003, with a 37 CFR 1.63 declaration signed by all of the inventors. On August 29, 2006, applicants filed a § 1.131 declaration. The 37 CFR 1.131 declaration was executed by all of the joint inventors, except inventor Doan. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration accepted as signed by inventors Zheng, Breiner, Ping, Beaman, Weimer, Kubista and Basceri on behalf of themselves and on behalf of non-signing inventor Trung Doan.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration.

> matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor Doan sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Doan's signature on the § 1.131 declaration. Applicants have shown that a bona fide effort was made to reach or locate inventor Doan to present the § 1.131 declaration and supporting documentation. The declaration presented is signed by all of the other joint inventors. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

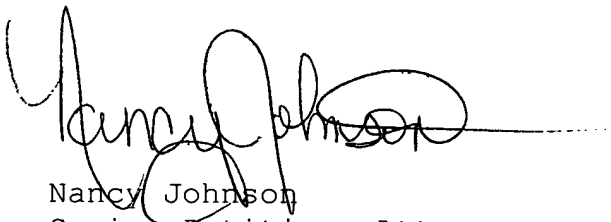
The petition is granted to the extent that the 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the declaration.

The petition included a check for $200 and authorization to charge any deficiency to a Deposit Account. The $200 deficiency in the petition fee under 37 CFR 1.17(f) of $400 required for

consideration of this petition under § 1.183 has been charged to Deposit Account No. 50-0665, as authorized.

The application is being forwarded to Technology Center 1763 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed August 29, 2006.

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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DEC 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Toshiaki Asada et al	:	
Application No. 10/652,484	:	DECISION GRANTING PETITION
Filed: September 2, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 116487	:	

This is a decision on the petition, filed December 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 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 3747 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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OFFICE OF PETITIONS

In re Application of :
Toshiaki Asada, et al. :
Application No. 10/652,484 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No.: 116487 :
:

This is a decision on the petition, filed October 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 May 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 3747 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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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

10/12/07

In re Application of:
Choe, Yun Soo, et al
Serial No.: 10/652,493
Filed: Sep. 2, 2003
Docket: 1670.1015
Title: HEATING CRUCIBLE FOR ORGANIC THIN FILM FORMING APPARATUS

DECISION ON PETITION
under 37 CFR 1.181

This is a decision on the petition filed on Sept. 18, 2006 to request to the examiner's grounds of rejection in the Examiner's Answer of Jul. 24, 2007 be designated as a new ground of rejection raised for the first time in the Examiner's Answer.

The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **GRANTED**.

In the petition, the petitioner requests the Office to issue a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the Technology Center 3700 Director or designee. In particular, the petitioner opines that the examiner's reliance on U.S. Patents to Colombo et al. (Colombo) (U.S. Patent No. 6,030,458), Yamashita et al. (Yamashita) (U.S. Patent No. 5,034,200), and Huther et al. (Huther) (U.S. Patent No 4,511,612) to support the rejection of claims 1, 2, 4, 7, 9, 11-13, 16-18, 21-25, and 29-31 under 35 USC 103(a) as being unpatentable over Chow in view of Chandler or Isaacson clearly constitutes a new ground of rejection under the above guidelines set forth in M.P.E.P. § 1207.03 and § 1207.03(111).

Based on the record of the application, it appears to be the examiner's intention to cite three new references, U.S. Patents to Colombo, Yamashita and Huther to support his rejection of the claims at issue and rebut the appellant's arguments raised in the Appeal Brief. The examiner particularly noted that "the new prior art patents are not applied in the ground of rejection, but they are listed under the section (8) Evidence Relied upon above in response to the applicant's newly raised argument in the brief that the pyrolytic boron nitride material shown in Chow is not a heat-resistant material. Contrary to the applicant's argument, these references show that the pyrolytic boron nitride materials are heat-resistant material." If the references in the final rejection of Oct. 12, 2006 are properly applied under 35 USC 103, then, it is not necessary to add these additional prior art references for further clarification and rebuttals in the Examiner's Answer. One skilled

in the art would have known what the physical and chemical properties of pyrolytic boron nitride material are. This is tantamount to citing the periodic chart when looking up for properties of elements. Therefore, the newly cited prior art patents to Colombo, Yamashita and Huther should not have been added in the Examiner's Answer. If the newly cited prior art patents are necessary to understand and explain the rejection, then, the prior art patents must be applied against the claims under the rejection. Moreover, in the Examiner's Answer of Jul. 24, 2006, the examiner listed these three prior art patents to Colombo, Yamashita and Huther under the Evidence Relied Upon section, which appears to be one of the prior art references against the claims under the rejection. By doing so, the addition of the Colombo, Yamashita and Huther patents in the Examiner's Answer constitutes new ground of rejection.

In order to clear the record and comply with MPEP 1207, the Examiner is directed to: 1) vacate the Examiner's Answer of Jul. 24, 2007 and issue a corrected Examiner's Answer that identifies the rejection as a new ground of rejection and includes the approval of the Technology Center 3700 Director or designee as requested in the current petition; or 2) issue a revised Examiner's Answer without any reference to the newly cited prior art patents to Colombo, Yamashita and Huther if the examiner believes the final rejection of Oct. 12, 2006 is proper and respond to the Reply Brief received on Sep. 18, 2007, if necessary. Under the circumstance, the examiner has the option to re-open prosecution if the newly cited prior art patents to Colombo, Yamashita and Huther are used as prior art references against the claims.

Conclusion

In finding petitioner's points of argument persuasive, the requested relief is granted. The Examiner's Answer mailed on Jul. 24, 2007 is hereby vacated. The examiner has been directed to issue a corrected Examiner's Answer or new Office action not inconsistent with this decision. The application is being forwarded to the Art Unit 3742 further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION GRANTED

Marc Jimenez 10-12-07 for

Frederick R. Schmidt, Director
Technology Center 3700

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October 22, 2007

Daniel Y. J. Kim
FLESHNER & KIM
P. O. Box 221200
Chantilly, VA 20153-1200

Patent No.: 6,809,966 B2
Application No.: 10/652,499
Inventor(s): Hung-Jim Kim
Issued: October 26, 2004
Title: **NON-VOLATILE SEMICONDUCTOR MEMORY DEVICE AND FABRICATING METHOD THEREOF**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of	:	
Hung-Jin Kim	:	
Application No. 10/652499	:	DECISION
Filing or 371(c) Date: 09/02/2003	:	ON PETITION
Patent No.: 6809966	:	
Issue Date: 10/26/2004	:	
Attorney Docket No.: CS-2170	:	

This is a decision on the correspondence entitled "Petition Under 37 CFR 1.183 to Waive Requirements of 37 CFR 3.81 & Include Second Assignee's Name on Patent," filed July 14, 2008, 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 properly treated as a petition under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that HYNIX SEMICONDUCTOR INC., is the assignee of record[2]. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

[2] In the case of a division or continuation application, a prior assignment recorded against the original application is applied (effective) to the division or continuation application because the assignment recorded against the original application gives the assignee rights to the subject matter common to both applications. MPEP 306.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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February 28, 2006

Eric J. Nuss
McKENNA LONG & ALDRIDGE, LLP
1900 K Street, N. W.
Washington, DC 20006

Patent No.: 6919674 B2
Application No.: 10/652501
Inventor(s): **Tae Gwan Jeong**
Issued: July 19, 2005
Title: **ELECTRON GUN FOR COLOR CATHODE RAY TUBE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Patent of :
Jeong :
Patent No. 6,919,674 :
Issue Date: July 19, 2005 : Decision on Petition
Application No. 10/652,501 :
Filing Date: September 2, 2003 :
Attorney Docket No. 27427.003.00 :

This is a decision in response to the paper filed April 6, 2006, which is being treated as a petition under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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 petition fee of $130 has been charged to petitioner's deposit account.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

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
www.uspto.gov

Stradling Yocca Carlson & Rauth
Suite 1600
660 Newport Center Drive
P.O. Box 7680

COPY MAILED

OCT 10 2006

OFFICE OF PETITIONS

In re Application of :
Daniel Mudd :
Application No. 10/652,506 : DECISION ON PETITION
Filed: August 28, 2003 : TO WITHDRAW
Attorney Docket No. 12252-0011 : 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 20, 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 there remain 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 April 12, 2006.

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.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Vanessa Owen, Esq.**
Brown Raysman Millstein Felder & Steiner LLP
1880 Century Park East, 12th Floor
Los Angeles, CA 90067

1FW DAC

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OCT 12 2006
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Alexandria, VA 22313-1450
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Stradling Yocca Carlson & Rauth
Suite 1600
660 Newport Center Drive
P.O. Box 7680

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of

Daniel Mudd
Application No. 10/652,506
Filed: August 28, 2003
Attorney Docket No. 12252-0011

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 July 20, 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 there remain 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 April 12, 2006.

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.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Vanessa Owen, Esq.**
Brown Raysman Millstein Felder & Steiner LLP
1880 Century Park East, 12th Floor
Los Angeles, CA 90067

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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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DEC 20 2007
OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of Abraham et al. :
Application No. 10/652,510 : Decision on Petition
Filing Date: August 29, 2003 :
Attorney Docket No. YOR920030020US1 :

This is a decision on the petition filed August 23, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts:

The Office mailed a non-final Office action on December 29, 2006. The Office action set a shortened statutory period for reply of three (3) months.

The December 29, 2006 Office action required the submission of corrected drawing sheets including legends. The Office action stated, "Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Petitioner filed a reply to the Office action on March 19, 2007. Petitioner filed two sets of drawings:

(1) 5 sheets of replacement drawings with each sheet including in the top margin the words, "Replacement Sheet," and
(2) 8 sheets of formal drawings without legends or the label, "Replacement Sheets."

Petitioner requested the examiner reconsider the requirement for legends on certain drawings and requested the examiner accept the eight sheets of formal drawings in lieu of the replacement sheets containing legends.

During the initial processing of the drawings, an employee apparently failed to recognize two sets of drawings had been filed and only reviewed the set of drawings containing 8 sheets. As a result, a Notice of Non-Compliant Amendment was mailed March 30, 2007. The Notice stated the drawings failed to include a proper identifier in the top margin. The Notice set an extendable one-month time period for reply.

The Office did not receive a reply to the March 30, 2007 Notice. As a result, a Notice of Abandonment was mailed August 17, 2007.

Discussion:

The instant petition asserts the Notice of Abandonment was improperly mailed for two reasons. First, petitioner asserts the Notice of Non-Compliant Amendment was improper. Second, petitioner asserts the Notice of Non-Compliant Amendment was never received.

The "improper" mailing of the Notice of Non-Compliant Amendment:

When an Office action or Notice is mailed, and a time period set for reply, a failure to respond will result in abandonment regardless of whether or not the Office action is correct or incorrect.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Non-Compliant Amendment. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the drawings filed March 19, 2007. In the alternative, petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing *prior to* the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn based on the Notice of Non-Compliant Amendment being improper.

The failure to receive the Notice of Non-Compliant Amendment:

Upon sufficient proof of non-receipt of an Office action or Notice, the Office will withdraw the holding of abandonment.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,

(2) attest that a search of the file jacket has been made,

(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

Petitioner has not stated a search of docket records has been performed or provided a copy of the docket record where the Office action would have been entered had it been received. Therefore, the petition cannot be granted at this time.

Request for Reconsideration:

Any Request for Reconsideration should include a statement asserting a search of docket records has been performed and include a copy of any docket records where the Office action would have been entered had it been received.

Unless submitted via EFS Web, any Request for Reconsideration should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of Abraham et al. :
Application No. 10/652,510 : Decision on Petition
Filing Date: August 29, 2003 :
Attorney Docket No. YOR920030020US1 :

This is a decision on the petition filed February 20, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

The Office mailed a non-final Office action on December 29, 2006. The Office action set a shortened statutory period for reply of three (3) months.

The December 29, 2006 Office action required the submission of corrected drawing sheets including legends. The Office action stated, "Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Petitioner filed a reply to the Office action on March 19, 2007. Petitioner filed two sets of drawings:

(1) 5 sheets of replacement drawings with each sheet including in the top margin the words, "Replacement Sheet," and
(2) 8 sheets of formal drawings without legends or the label, "Replacement Sheets."

Petitioner requested the examiner reconsider the requirement for legends on certain drawings and requested the examiner accept the eight sheets of formal drawings in lieu of the replacement sheets containing legends.

During the initial processing of the drawings, an employee apparently failed to recognize two sets of drawings had been filed and only reviewed the set of drawings containing 8 sheets. As a result, a Notice of Non-Compliant Amendment was mailed March 30, 2007. The Notice stated the drawings failed to include a proper identifier in the top margin. The Notice set an extendable one-month time period for reply.

The Office did not receive a reply to the March 30, 2007 Notice. As a result, a Notice of Abandonment was mailed August 17, 2007.

The instant petition is accompanied by evidence establishing non-receipt of the March 30, 2007 Notice.

Since the March 30, 2007 Notice was not received by petitioner, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Technology Center Art Unit 2117 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAY 09 2008

In re :
Patent No. 6,985,021 : DECISION ON PETITION
Issued: January 10, 2006 :
Application No. 10/652,521 :
Filed: August 29, 2003 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 FOR DUPLICATE LETTERS PATENT", filed August 23, 2007.

The petition under 37 CFR 1.182 is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)308-9250, extension 129.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, P/OPPD (FAX 571-270-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 22, 2007

TO SPE OF : ART UNIT 2816 10/652530

SUBJECT : Request for Certificate of Correction on Patent No.: 6906582 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:

LHN 06/22/07

Robert Pascal
SPE

2816
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Holmes, Richard C.	:	
Application No. 10/652,535	:	DECISION GRANTING PETITION
Filed: August 29, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NO-P02852US0	:	

This is a decision on the petition, filed November 18, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 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, will be mailed by the Publishing Division in due course.

This matter is being referred to Technology Center Art Unit 1764 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-7-08 Paper No.: ____

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 7280924 (10/652535

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.

E. Ramos

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~474~~

Inventor's address A/S/A/P

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:

- Address change is not approved, as the address on the front cover is the same as the address in Palm. Applicant should submit a notification of the inventor address change to the record, and not a certificate of correction.
- Changes to correct the assignees name are approved.

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER

SPE

2857
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DAVID B. RITCHIE
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Esterberg et al.	:	
Application No. 10/652,537	:	ON PETITION
Filed: August 28, 2003	:	
Attorney Docket No. IMPJ-0016	:	

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 Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

This matter is being referred to Technology Center 2800 for consideration of the concurrently filed Amendment under 37 CFR 1.312.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON, MA 02110

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Katherine J. Snell :
Application No. 10/652,544 : DECISION GRANTING PETITION
Filed: August 29, 2003 : UNDER 37 CFR 1.182
Attorney Docket No. D-2002-0060 :

This is a decision on the "Request for Change of Applicant's Name," filed June 17, 2005, which is being treated as a petition under the provisions of 37 CFR 1.182. *See* MPEP § 605.04(c).

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt with the inventor's change of name accompanies this decision on petition.

A petition under 37 CFR 1.182 requires a fee of $400. The petition was not accompanied by the required fee. However, as authorized by the transmittal letter submitted with the application, the $400 fee will be charged to petitioner's deposit account No. 19-0130.

The inventor's change of name will appear on the printed patent if this can be accomplished without disrupting the printing process. However, if the printing of this application patent has progressed to the point where the inventor's change of name cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323.

The address appearing on the petition differs from the address of record. If appropriate, a change of address should be submitted. A courtesy copy of this decision is being mailed to the address on the petition. However, until appropriately notified, all further correspondence will be mailed solely to the above address of record.

Inquiries concerning this decision on petition may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc:

Daniel J. Long
BAE Systems
P O Box 868
Nashua, NH 03061-0868

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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DW 04/04

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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APR 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Clifton W. Woods	:	
Application No. 10/652,573	:	DECISION REFUSING STATUS
Filed: 28 August, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. MI40-362	:	

This is in response to the petition filed under 37 CFR 1.47(b) on 3 March, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified reissue application was filed on 28 August, 2003, without an executed oath or declaration. Accordingly, on 8 October, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Reissue Application, requiring an executed reissue oath or declaration and a surcharge for its late filing.

In response, on 3 March, 2004, petitioner filed the present petition, petition fee, and surcharge, accompanied by a two (2) month extension of time.

Petitioner asserts that the inventor has orally refused to sign the declaration. Petitioner has also enclosed a copy of a Patent Assignment signed by the non-signing inventor naming Micron Communications, Inc. (by merger Micron Technology, Inc.) as the

assignee.
A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (2), and (6).

As to item (1), petitioner must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioner must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

While the petition includes a declaration by David J. Kaplan, Associate General Counsel for Micron Technology, Inc., stating that the inventor orally refused to sign the declaration during a telephone call, petitioner must show that a copy of the application papers were sent to the non-signing inventor.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be

---

[1] MPEP 409.03(d).

signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

As to item (6), petitioner must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[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 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

Although petitioners filed a two (2) month extension of time with the present petition, the petition was filed more than two months after the end of the period for reply. Since this petition was filed within three months after the date for reply to the Notice mailed on 8 October, 2003, a three (3) month extension of time is due. The balance due of $530.00 will be charged to counsel's deposit account No. 23-0925, as authorized in the present petition.

---

[2] MPEP 409.03(b).

[3] MPEP 409.03(g).

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
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DIW 06-04

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Clifton W. Woods	:	
Application No. 10/652,573	:	DECISION ACCORDING STATUS
Filed: 28 August, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. MI40-362	:	

This is in response to the renewed petition filed under 37 CFR 1.47(b) on 9 June, 2004.

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, petitioners shown that a copy of the application was sent and faxed to the non-signing inventor on several occasions. The non-signing inventor, however, has failed to sign and return the declaration. In addition, petitioners have shown, via the legal memorandum by David J. Kaplan, Associate General Counsel, filed with the original petition on 3 March, 2004,, that petitioner Micron Technology, Inc. has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by petitioner's registered patent attorney David J. Kaplan, and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address listed on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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 08-04

Clifton W. Wood, Jr.
7802 E. 97th St. Apt. 7309
Tulsa, OK 74133

COPY MAILED

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OFFICE OF PETITIONS

In re Application of
Clifton W. Wood, Jr.
Application No. 10/652,573
Filed: 28 August, 2003
For: METHOD OF ADDRESSING MESSAGES AND COMMUNICATIONS SYSTEM

Dear Mr. Wood:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO CA 95814

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DEC 0 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,022,165 :
Issue Date: April 4, 2006 :
Application No. 10/652,574 : NOTICE
Filed: August 29, 2003 :
Attorney Docket No. LAD02-032 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, 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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Karen Y. Mikus
Patent Paralegal, LC/IP
P.O. Box 1663, Mail Stop A187
Los Alamos, New Mexico 87545

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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LARSON NEWMAN ABEL & POLANSKY, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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MAY 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Frost et al.	:	
Application No. 10/652,580	:	ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No. 1030-0002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/970,180.

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 $65.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Charles E. Baxley, ESQ.
90 John Street
3rd Floor
New York, NY 10038

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OFFICE OF PETITIONS

In re Application of :
Liao :
Application No. 10/652,601 : Decision on Petition
Filed: August 29, 2003 :
Attorney Docket No. 15214 B (4072 SS) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned as of midnight on September 22, 2004. A Notice of Abandonment was mailed on January 19, 2005.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2859 will be informed the application has been revived so that it may consider the amendment filed on June 27, 2005, in due course.

Telephone inquiries may 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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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Tetsuro Motoyama et al :
Application No. 10/652,602 : DECISION ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 49986-0527 :

This is a decision on the petition under 37 CFR 1.314, filed May 11, 2007, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

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

Any subsequent petition under 37 CFR 1.314 may also be filed through the Electronic Filing System.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Derrick W. Whittle, et al.
Application No. 10/652,607
Filed: August 29, 2003
Attorney Docket No. 10652607

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison and Foerster has been revoked by the assignee of the patent application on April 29, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **YAHOO! INC.**
C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/26/2010

Applicant	: Wolfgang Doerr	: DECISION ON REQUEST FOR
Patent Number	: 7600988	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/652,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6969633	2005-11-29	10/652,631	2003-08-29	ITO.0539D1US (P10144D)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2010-02-08
Name	Jeffrey S. Draeger	Registration Number	41000

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6969633
Issue Date: November 29,2005
Application No. 10652631
Filed: August 29,2003
Attorney Docket No. ITO.0539D1US (P10144D)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 145
ALEXANDRIA, VA 22313-145
www.uspto.go

MAILED

JUN 09 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 3600

Silicon Valley Intellectual Property Group
P.O. Box 721120
San Jose, CA 95172-1120

In re application of : **DECISION ON PETITION**
John R. Abe : **TO MAKE SPECIAL**
Application No. 10/652,640 : **(ACCELERATED**
Filed: August 28, 2003 : **EXAMINATION)**
For: METHOD FOR SIMULATING AN :
OPTIMIZED SUPPLIER IN A MARKET :

This is in response to the petition filed on April 14, 2004 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 no 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).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, 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 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 6/3/04

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: HOMARE KANIE
Application No. 10/652,652
Filed: August 28, 2003
For: METHOD AND PROGRAM FOR CREATING PICTURE DATA, AND SYSTEM USING THE SAME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed May 20, 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 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

RP

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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AUG 01 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAM FRANCISCO, CA 94111-3834

In re Application of:
TANAKA ET AL.
Serial No.: 10/652,653
Filed: August 28, 2003
Title: SAN/NAS INTEGRATED STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on November 24, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out how the claimed subject matter is distinguishable over the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

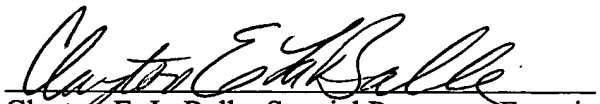
Applicant presents a summary of the limitations of the independent claims (pages 3-4), a statement that none of the references disclose the storage system having combination of limitations found in the independent claims (pages 4-5), and a list of each of the cited references along with a short summary of the teachings of each reference (pages 5-9).

Petitioner fails to distinguish each independent claim from each reference in a manner satisfying 37 CFR § 1.111 (b) and (c). For instance, with respect to submitted reference number 5, petitioner does not state what limitations the claims recite which are neither disclosed nor made obvious by the reference. Such a statement is required under 37 CFR § 1.111 (b) and (c). A mere summary of the claims and the references, with no comparison and distinguishment between the two, is insufficient to satisfy the requirements of MPEP § 708.02(VIII)(e).

For the above-mentioned reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JUN - 2 2005

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

In re Application of	:	
Zheng J. Li et al	:	
Serial No.: 10/652,655	:	PETITION TO MAKE SPECIAL
Filed: August 28, 2003	:	
Attorney Docket No.: PC11724E	:	

This is in response to applicants' petition filed April 29, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, 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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July 27, 2005

Kenneth W. Bolvin
LEFFERT JAY & POLGLAZE
P. O. Box 581009
Minneapolis, MN 55458-1009

Patent No.: **6912985 B2**
Inventor(s): **Gesell, et al.**
Issued: July 5, 2005
Title: **OIL DEFLECTOR APPARATUS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

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LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS MN 55458-1009

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JUL 16 2007

OFFICE OF PETITIONS

In re Patent No. 6,912,985 :
Issued: July 5, 2005 :
Application No. 10/652,683 : ON PETITION
Filed: August 29, 2003 :
Attorney Docket Number: 153.001US01 :

This is a decision on the petition filed September 12, 2005, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the failure to include the correct assignee on the Fee(s) Transmittal form PTOL-85(b) filed April 26, 2005 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for a certificate of correction was filed July 5, 2005 and was dismissed in a decision mailed August 5, 2005 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that MILLER FELPAX CORPORATION is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No.

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED
MAR 15 2010

In re Patent No. 7,498,304	:	DECISION ON REQUEST
Kotkow et al.	:	FOR
Issue Date: March 3, 2009	:	RECONSIDERATION OF
Application No. 10/652,686	:	PATENT TERM ADJUSTMENT
Filed: August 29, 2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
CIBT-P02-119	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred (700) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-nine (659) is **GRANTED to the extent indicated herein.**

As to the "B" delay, this period begins 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), and ends on the day before the date a request for continued examination was filed, or 729 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the date of mailing of the Office action under 35 U.S.C. 132, or 40 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Further, 39 days of the "A" period overlap with the "B" period. Thus, the "B" delay period is 689 (729 - 40) days, and the additional non-overlapping period is 650 (689 - 39) days, not 691 days. The patent term adjustment is therefore 659 (128 + (729 - 40) - 39 - 119) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application 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 **six hundred fifty-nine (659)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,498,304 B2

DATED : **March 3, 2009** **DRAFT**

INVENTOR(S) : Kotkow 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 611 days.

Delete the phrase "by 611 days" and insert – by 659 days--

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MAY 20 2008

PETER J. RASHID
5111 MOUNTAIN ROAD
BRIGHTON MI 48116-9735

In re Application of
Arana
Application No.: 10/652,706
Filing Date: 29 August, 2003
Attorney Docket No. ARO-00006

DECISION

This is a decision on the petition filed on 13 November, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 February, 2007, with reply due absent extension of time on or before 2 May, 2007.

On 25 March, 2007, Petitioner submitted an amendment after final, which the Examiner refused to enter and Petitioner–as one registered to practice before the Office—knows is not as of right and not a proper reply if it does not *prima facie* place the application in condition for allowance, and on 24 July, 2007, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 2 May, 2007.

On 21 August, 2007, Petitioner filed (late) a Notice of Appeal (with Fee) and Request for Conference—the Decision on Conference was mailed on 1 October, 2007, and on 10 October, 2007, Petitioner filed an Appeal Brief (with Fee).

The Office mailed a Notice of Abandonment on 22 October, 2007.

On 13 November, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of the appeal brief previously filed, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 3714 for the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Richard L. Watkins	: DECISION ON REQUEST FOR
Patent Number	: 7597946	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/652,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **98** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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.