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.: 04-04

Paper No: __

JESSE J. CARMICHAEL
237 LORD ST.
BUFFALO NY 14206

COPY MAILED
APR 17 2006
OFFICE OF PETITIONS

In re Application of
Carmichael :
Application No. 10/657,340 : ON PETITION
Filed: 8 September, 2003 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 27 March, 2006, to revive the above-identified application under 37 C.F.R. §1.137(a)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R.

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 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. The Commissioner may require additional information where there is a question whether the delay 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). (Emphasis supplied.)

§1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

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

(3) The record herein suggests that Petitioner is unfamiliar with patent prosecution practice before the Office. While an inventor may prosecute an application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Petitioner may wish to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Fee Deficiency mailed on 2 May, 2005, with a reply due absent an extension of time on or before Monday, 4 June, 2005;
- as a result, the application was deemed abandoned after midnight 2 June, 2005;
- the Office mailed the Notice of Abandonment on 19 December, 2005;
- in the instant petition (with fee authorization), Petitioner simply avers that his former Counsel did not have sufficient funds in the deposit account, however, it was not the lack of sufficient funds but rather the former Counsel's failure to reply timely and properly to the Notice of the deficiency;
- moreover, the failure to reply to such a Notice does not constitute unavoidable delay.

Petitioner is reminded to consult the MPEP Chapter 700, specifically MPEP §711.03(c) for a discussion of the requirements as to petitions to revive under 37 C.F.R. §1.137(a) and (b).[3]

---

[2] Petitioner may identify a registered practitioner in Petitioner's locale at the Office website: www.uspto.gov .

[3] See the Commentary at MPEP §711.03(c) at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

The facts outline by Petitioner in the instant filing suggest that Petitioner is unlikely to satisfy the showing requirement of 37 C.F.R. §1.137(a), and Petitioner's only relief likely is a petition under 37 C.F.R. §1.137(b).

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).[4]

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.[5] Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] 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

---

[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] 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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unavoidable Delay

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.

With regard to the petition to revive under 37 C.F.R. §1.137(a), Petitioner has failed to satisfy the "showing" requirements, with documentary support (docket reports, file jacket cover notations, notes-to-file, etc.) under the regulation.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[10]

---

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

[10] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[11]
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 concerning this decision may be directed to the undersigned at (571) 272-3214.

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

Encl: Notices (Including that of 2 May, 2005
Petition form under 37 C.F.R. §1.137(b)

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

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.

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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/657,340	09/08/2003	Jesse J. Carmichael	

CONFIRMATION NO. 1655

SIMON, GALASSO & FRANTZ PLC.
P.O. Box 26503
Austin, TX 78755-0503

FORMALITIES LETTER

OC000000011462353

Date Mailed: 12/11/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

T. Petro

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

10/657340

PATENT APPLICATION FEE DETERMINATION RECORD
Effective January 1, 2003

Application or Docket Number: 1688.03C

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
TOTAL CLAIMS	20	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	20 minus 20=	* 0
INDEPENDENT CLAIMS	3 minus 3 =	* 0
MULTIPLE DEPENDENT CLAIM PRESENT		☐

* If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY TYPE ☐		OR	OTHER THAN SMALL ENTITY	
RATE	FEE		RATE	FEE
BASIC FEE	375.00	OR	BASIC FEE	750.00
X$ 9=		OR	X$18=	
X42=		OR	X84=	
+140=		OR	+280=	
TOTAL	375	OR	TOTAL	

CLAIMS AS AMENDED - PART II

11/09/04

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 16	Minus	** 20	=
Independent	* 5	Minus	*** 3	= 2
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

1, 9, 16, 21, 22

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X42=	88	OR	X84=	
+140=		OR	+280=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

1 9 16

		OR		
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X42=		OR	X84=	
+140=		OR	+280=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT C

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

		OR		
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X42=		OR	X84=	
+140=		OR	+280=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

PATENT IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC8 NOV 0 9 2004 PATENT & TRADEMARK OFFICE

In re Application of: Jesse J. Carmichael	:	By the Examiner: Stephen T. Gordon
Serial No.: 10/657,340	:	Group Art Unit: 3612
Filed: September 8, 2003	:	
Title: Cargo Space Organizer		

CERTIFICATE OF MAILING

Date of Deposit: November 4, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated above, with sufficient postage for First Class Mail in an envelope addressed to:

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

Type or Print Name Martha Rocha

Martha Rocha
Signature

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

Dear Sir or Madame:

TRANSMITTAL LETTER

Transmitted herewith for filing in the above-identified patent application are the following documents:

1. Response to Office Action (11 pgs); and
2. Confirmation Postcard.

No fee is due. However, if Applicant is in error, the Commissioner is hereby authorized to charge the fees associated with this communication or credit or overpayment to Simon, Galasso & Frantz PLC Deposit Account No. 50-1259 under Reference No. 1688.030001.

Respectfully Submitted,
Jesse J. Carmichael

By: _____
Raymond M. Galasso
Reg. No. 37,832

Simon, Galasso & Frantz PLC
P.O. Box 26503
Austin, Texas 78755-0503
Telephone: (512) 372-8240
Facsimile: (512) 372-8247

OIPE
NOV 0 9 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jesse J. Carmichael	:	Examiner: Stephen T. Gordon
Serial No.: 10/657,340	:	Group Art Unit: 3612
Filed: 09/08/2003	:	
Title: Cargo Space Organizer	:	

CERTIFICATE OF MAILING

Date of Deposit: November 4, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to:

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

Type or Print Name Martha Rocha

Martha Rocha
Signature

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

RESPONSE TO OFFICE ACTION

Dear Sir:

This is a response to an Office Action mailed August 4, 2004, by the United States Patent and Trademark Office (the Office). The Applicant requests reconsideration of the above-identified application in view of the amendments and remarks presented herein.

Amendments of the Claims begin on page 2 of this correspondence.

Remarks begin on page 9 of this correspondence.

Conclusions begin on page 11 of this correspondence.

AMENDMENTS – IN THE CLAIMS

Please amend the claims as follows.

1. (currently amended) A cargo space organizer, comprising:

   a first elongated member having a first end and a second end;

   a second elongated member having a first end and a second end; and

   a retention assembly attached to the first end of the second elongated member and configured for engaging a mating retention feature of the first elongated member, wherein the retention assembly enables the second elongated member to be attachable at a plurality of different mounted positions between the first and second ends of the first elongated member~~.~~, wherein the retention assembly includes a release mechanism coupled to a retention member and wherein the retention member is moved from an engaged position to a disengaged position when the release mechanism is moved from an at-rest position toward a displaced position, thereby enabling the retention member to be disengaged from the mating retention feature.

2. (original)The cargo space organizer of claim 1 wherein:

   the retention assembly includes at least one retention member that engages the mating retention feature of the first elongated member; and

   said at least one retention member and the mating retention feature are jointly configured for enabling the second elongated member to be selectively attachable at the plurality of different mounted positions between the first and second ends of the first elongated member.

3. (currently amended) The cargo space organizer of claim 2 wherein:

   said at least one retention member ~~assembly~~ includes a pin;

   the mating retention feature includes a plurality of longitudinally-spaced holes extending through a surface of the first elongated member; and

the pin is selectively engagable with said holes.

4. (original) The cargo space organizer of claim 2 wherein:
said at least one retention member includes a pair of spaced apart pins;
the mating retention feature includes a plurality of longitudinally-spaced paired holes extending through a surface of the first elongated member; and
the pair of spaced apart pins are selectively engagable with said paired holes.

5. (canceled)

6. (currently amended) The cargo space organizer of claim 1, further comprising:
a first extension member repositionably attached to one of said ends of the first elongated member, thereby enabling an overall length of the first elongated member to be selectively increased or decreased; and
a second extension member repositionably attached to the second end of the second~~first~~ elongated member, thereby enabling an overall length of the second elongated member to be selectively increased or decreased.

7. (original) The cargo space organizer of claim 6, further comprising:
means for enabling the first and the second extension members to be independently repositioned and secured relative to a longitudinal axis of the respective elongated member.

8. (currently amended) The cargo space organizer of claim 7 wherein said means includes:
a spring-loaded pin mounted on each one of said elongated members; and
a plurality of spaced-apart holes extending through a surface of each one of said extension members and ~~are~~ selectively engagable by the respective spring-loaded pin.

9. (currently amended) A cargo space organizer, comprising:

a first elongated member having a first end and a second end;

a second elongated member having a first end and a second end, wherein the second elongated member is repositionably attached at the first end thereof to the first elongated member, ~~and~~ wherein the second end of the second elongated member is repositionable between a plurality of mounted positions between the first and second ends of the first elongated member, wherein the second elongated member includes at least one retention member configured for enabling the second elongated member to be repositionably attached at the first end thereof to the first elongated member, wherein said at least one retention member is attached to the first end of the second elongated member and is configured for engaging a mating retention feature of the first elongated member and wherein said at least one retention member and the mating retention feature are jointly configured for enabling the second elongated member to be attachable at a plurality of different mounted positions between the first and second ends of the first elongated member; ~~and~~

a plurality of extension members, wherein a first one of said extension members is repositionably attached to the first end of the first elongated member, wherein a second one of said extension members is repositionably attached to the second end of the second elongated member, and wherein each one of said extension members is repositionable between a plurality of respective positions thereby enabling an overall length of the respective elongated member to be selectively increased or decreased; and~~.~~

a release mechanism coupled to said at least one retention member, wherein said at least one retention member is moved from an engaged position to a disengaged position when the release mechanism is moved from an at-rest position toward a displaced position, thereby enabling said at least one retention member to be disengaged from the mating retention feature.

10. (original) The cargo space organizer of claim 9, further comprising:

means for enabling each one of said extension members to be independently repositioned and secured relative to a longitudinal axis of the respective elongated member.

11. (currently amended) The cargo space organizer of claim 10 wherein said means includes:
    a spring-loaded pin mounted on each one of said elongated members; and
    a plurality of spaced-apart holes extending through a surface of each one of said extension members and ~~are~~ selectively engagable by the respective spring-loaded pin.

12. (cancelled)

13. (currently amended) The cargo space organizer of claim 9~~12~~ wherein:
    said at least one retention member includes a pin;
    the mating retention feature includes a plurality of longitudinally-spaced holes extending through a surface of the first elongated member; and
    the pin is selectively engagable with said holes.

14. (currently amended) The cargo space organizer of claim 9~~12~~ wherein:
    said at least one retention member includes a pair of spaced apart pins;
    the mating retention feature includes a plurality of longitudinally-spaced paired holes extending through a surface of the first elongated member; and
    the pair of spaced apart pins are selectively engagable with said paired holes.

15. (canceled)

16. (currently amended) A cargo space organizer, comprising:

a first elongated member having a first end and a second end;

a second elongated member having a first end and a second end;

a retention assembly attached to the first end of the second elongated member and configured for engaging a mating retention feature of the first elongated member, wherein the retention assembly enables the second elongated member to be attachable at a plurality of different mounted positions between the first and second ends of the first elongated member, wherein the retention assembly includes at least one retention member that engages the mating retention feature of the first elongated member, and wherein said at least one retention member and the mating retention feature are jointly configured for enabling the second elongated member to be attachable at a plurality of different mounted positions between the first and second ends of the first elongated member; ~~and~~

a plurality of extension members, wherein a first one of said extension members is repositionably attached to the first end of the first elongated member, wherein a second one of said extension members is repositionably attached to the second end of the second elongated member, ~~and~~ wherein each one of said extension members is repositionable between a plurality of respective positions thereby enabling an overall length of the respective elongated member to be selectively increased or decreased, wherein the mating retention feature includes a plurality of longitudinally-spaced holes extending through a surface of the first elongated member and wherein a pin of the retention assembly is selectively engagable with said holes; and

a release mechanism coupled to the pin, wherein the pin is moved from an engaged position to a disengaged position when the release mechanism is moved from an at-rest position toward a displaced position..

17. (canceled)

18. (canceled)

19. (canceled)

20. (currently amended) The cargo space organizer of claim 1~~6~~9, further comprising:

means for enabling said extension members to be independently repositioned relative to a longitudinal axis of the respective elongated member and secured in place on the respective elongated member.

21. (new) A cargo space organizer, comprising:

a first elongated member having a first end and a second end;

a second elongated member having a first end and a second end;

a retention assembly attached to the first end of the second elongated member and configured for engaging a mating retention feature of the first elongated member, wherein the retention assembly enables the second elongated member to be attachable at a plurality of different mounted positions between the first and second ends of the first elongated member;

a first extension member repositionably attached to one of said ends of the first elongated member, thereby enabling an overall length of the first elongated member to be selectively increased or decreased;

a second extension member repositionably attached to the second end of the second elongated member, thereby enabling an overall length of the second elongated member to be selectively increased or decreased; and

means for enabling the first and the second extension members to be independently repositioned and secured relative to a longitudinal axis of the respective elongated member, wherein said means includes a spring-loaded pin mounted on each one of said elongated members and a plurality of spaced-apart holes extending through a

surface of each one of said extension members and selectively engagable by the respective spring-loaded pin.

22. (new) A cargo space organizer, comprising:

a first elongated member having a first end and a second end;

a second elongated member having a first end and a second end, wherein the second elongated member is repositionably attached at the first end thereof to the first elongated member and wherein the second end of the second elongated member is repositionable between a plurality of mounted positions between the first and second ends of the first elongated member;

a plurality of extension members, wherein a first one of said extension members is repositionably attached to the first end of the first elongated member, wherein a second one of said extension members is repositionably attached to the second end of the second elongated member, and wherein each one of said extension members is repositionable between a plurality of respective positions thereby enabling an overall length of the respective elongated member to be selectively increased or decreased; and

means for enabling each one of said extension members to be independently repositioned and secured relative to a longitudinal axis of the respective elongated member, wherein said means includes a spring-loaded pin mounted on each one of said elongated members and a plurality of spaced-apart holes extending through a surface of each one of said extension members and selectively engagable by the respective spring-loaded pin.

REMARKS

The Application has been carefully reviewed in light of the Office Action mailed August 4, 2004 by the Office. At the time of this Office Action, Claims 1-20 were pending in the Application, of which Claims 1-4, 6-14 and 16-20 were rejected and Claims 5 and 15 were objected to. In order to advance prosecution of this case, Claims 1, 3, 6, 8, 9, 11, 13, 14, 16 and 20 have been amended to overcome the rejections asserted by the Office, to correct various informalities and to state more clearly what the Applicant claims as his invention. Additionally, claims 5, 12, 15, 17, 18 and 19 have been canceled and new Claims 21 and 22 have been presented. It is believed that the amended claims do not involve any introduction of new matters, whereby entry is believed to be in order and is respectfully requested. The Applicant respectfully requests reconsideration and favorable action in this case.

The following actions were taken or matters raised: (I) Claims 3, 6-8, 11 and 18-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention; (II) Claims 1-4, 6-7, 9-10, 12-14 and 16-18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Owens (US Patent No. 5,971,685); (III) Claims 5 and 15 were objected to as being dependent upon a rejected base claim; and (IV) Claims 8, 11, and 19-20 have been stated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

I. Claims 3, 6-8, 11 and 18-20 Rejected Under 35 U.S.C. § 112, Second Paragraph.

Claims 3, 6-8, 11 and 18-20 have been amended to overcome the cited rejections under 35 U.S.C. § 112, second paragraph.

II. Objected To Claims

Claim 1, which is the immediate base claim of Claim 5, has been rewritten to include the limitations of Claim 5. Claim 9, which is the immediate base claim of Claim 12 and the intervened base claim of Claim 15 dependent upon Claim 12, has been rewritten to include the limitations of Claims 12 and Claim 15.

III. Allowable Claims

New Claim 21 includes all of the limitations of Claim 8, its base and any intervening claims. New Claim 22 includes all of the limitations of Claim 11, its base and any intervening claims. Claim 16, which is the base claim of Claim 19 and intervening Claims 17 and 18, has been rewritten to include the limitations of Claims 17-19.

IV. Amendments to Miscellaneous Other Claims

Other claims have been amended to correct claim dependencies in accordance with the amended claims presented herein.

CONCLUSION

The Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for reasons clearly apparent, the Applicant respectfully requests full allowance of all pending claims. If there are any matters that can be discussed by telephone to further the prosecution of the Application, the Applicant invites the Examiner to contact the undersigned at 512-372-8240 at the Examiner's convenience.

Respectfully Submitted,
Jesse J. Carmichael

By: _____
Raymond M. Galasso
Reg. No. 37,832

Simon, Galasso & Frantz PLC
P.O. Box 26503
Austin, Texas 78755-0503
Telephone: (512) 372-8240
Facsimile: (512) 372-8247

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 v

OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York NY 10036-8403

COPY MAILED
FEB 1 0 2005
OFFICE OF PETITIONS

In re Application of Chen et al. Application No.10/657,343 Filed: September 8, 2003 Attorney Docket No. P/144-321 Title of Invention: MULTIPORT RJ CONNECTOR	DECISION GRANTING PETITION UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed December 1, 2004.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/921,056 filed August 2, 2001, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed September 25, 2002, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

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

Pursuant to petitioner's request, deposit account 15-0700 will be charged the $200.00 petition fee.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

OIPE JC106
DEC 0 1 2004
PATENT & TRADEMARK OFFICE

OFGS File No.: P/144-32

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

John Chen et al.

Serial No.: 10/657,343

Filed: September 8, 2003

For: MULTIPORT RJ CONNECTOR

Date: November 29, 2004

Group Art Unit: 2833

Examiner: N/A

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

02/10/2005 CKHLOK 00000024 150700 10657343
01 FC:1463 200.00 DA

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

Sir:

This is responsive to the Notice to File Missing Parts of Nonprovisional Application mailed November 5, 2004, indicating that the signature of one of the inventors "Nab Tat Yip is missing from the Declaration. The subject application is a continuation of Serial No. 09/921,056 in which application a Petition Under Rule 1.47(a) was granted to approve the filing of the application without the signature of Man Tat Yip. A copy of the decision is enclosed.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account #15-0700.

If this communication is filed after the time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. §1.136(a), to extend the time for filing a response by the number of months which will avoid abandonment under 37 C.F.R. §1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, Alexandria, VA 22313-1450, on November 29, 2004

Martin Pfeffer
Name of applicant, assignee or Registered Representative

Signature

November 29, 2004
Date of Signature

MP:cfm

Respectfully submitted,

Martin Pfeffer
Registration No.: 20,808
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

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

MORRISON & FOERSTER, LLP.
555 W. FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED

SEP 03 2008

OFFICE OF PETITIONS

In re Application of	:	
GRAFT, et al.	:	
Application No. 10/657,354	:	DECISION ON PETITION
Filed: September 8, 2003	:	TO WITHDRAW
Attorney Docket No. **1016720015P**	:	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 5, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RUTAN & TUCKER, LLP**
611 ANTON BOULEVAR, SUITE 1400
COSTA MESA, CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

COPY MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
James F. Young	:	
Application No. 10/657,363	:	DECISION DISMISSING PETITIONS
Filed: September 8, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10271-159-999	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 31, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120 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 where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above. In this regard, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after

its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

COPY MAILED

SEP 1 0 2009

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
James F. Young, et al.	:	DECISION ON PETITION
Application No. 10/657,363	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: September 8, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10271-159-999	:	

This is a decision on the renewed petition, filed August 14, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1648 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/657,363	09/08/2003	1648	2570	10271-159-999	48	2

CONFIRMATION NO. 3135

CORRECTED FILING RECEIPT

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

OC000000037645161

Date Mailed: 09/03/2009

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 F. Young, Darnestown, MD;
Leslie S. Johnson, Germantown, MD;
William D. Huse, Del Mar, CA;
Herren Wu, Houston, TX;
Jeffry D. Watkins, Encinitis, CA;

Power of Attorney: The patent practitioners associated with Customer Number 20583

Domestic Priority data as claimed by applicant

This application is a CON of 09/771,415 01/26/2001 PAT 6,656,467
which claims benefit of 60/178,426 01/27/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/657,363**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ULTRA HIGH AFFINITY NEUTRALIZING ANTIBODIES

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/30/09

TO SPE OF : ART UNIT 3714 Suhol Dmitry (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/657365 Patent No.: 7544129

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

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

3714
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

COPY MAILED
NOV 0 2 2006
OFFICE OF PETITIONS

Fish & Neave IP Group
Ropes & Gray LLP
One International Place
Boston, MA 02110-2624

In re Application of	:	
Yan Chang et al.	:	
Application No. 10/657,383	:	DECISION ON PETITION
Filed: September 8, 2003	:	TO WITHDRAW
Attorney Docket No. GLYO-P03-002	:	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 24, 2006.

The request is **APPROVED**.

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

The request was signed by David P. DeGiacomo on behalf of all attorneys of record who are associated with Customer No. 28120.

All attorneys/agents associated with the Customer No. 28120 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yan Chang**
71 Winter Street
Ashland, MA 01721

cc: **Mark G. DeGiacomo**
Murtha Cullina LLP
99 High Street, 20th Floor
Boston, MA 02110

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
10/657,383	09/08/2003	Yan Chang	GLYO-P03-002

CONFIRMATION NO. 9375

OC0000000021071657

OC000000021071657

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-07

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Chang et al. :
Application No. 10/657383 : ON PETITION
Filed: 09/08/2003 :
Atty Dckt No. GLYO-P03-002 :

This is a decision in reference to the petitions filed on 25 May, 2007, which are treated as (a) a petition under 37 CFR 1.48(a)(1) requesting a person be deleted as a named inventor; (b) a petition under 37 CFR 1.47(a) and 37 CFR 1.183(a)(1) requesting waiver of 1.48(a)(1) in that a person sought to be added as a named inventor will not sign the statement of lack of deceptive intent or the declaration under 37 CFR 1.63 and 1.67; and (c) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

Applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a), 1.183 and 1.48," 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).

On 8 September, 2003, the above-identified application was filed with a declaration naming Yan Chang and Vodek Sasak as joint inventors.

On 25 May, 2007, the present petitions were filed. Petitioners request that Vodek Sasak be deleted and David Platt be added as named inventors under 37 CFR 1.48(a)(1). Petitioners further request waiver under 37 CFR 1.183 of 1.48(a)(1) in as much as Platt refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. A petition under 37 CFR

1.47(b) is requested in that the inventor sought to be added, as well as the existing inventor, refuse to the declaration under 37 CFR 1.63. Lastly, petitioners also request waiver under 37 CFR 1.183 of 1.64 in that a named inventor, Yan Chang, refuses to execute the supplemental declaration naming him as a joint inventor along with David Platt.

Petition Under 37 CFR 1.48(a) and Under 37 CFR 1.183 to Waive 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) 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;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

With regard to the request to delete Vodek Sasak as a joint inventor, petitioners state that a copy of the statement of lack of deceptive intent was sent to Sasak, but that he has refused to sign and return it. A review of the official file reveals, however, that Sasak did in fact sign and return the statement, filing it with the USPTO on 30 April, 2007 (certificate of mailing date 26 April, 2007). As such, it is not necessary waive 1.48(a) under 37 CFR 1.183 with regard to inventor Sasak.

With regard to joint inventor David Platt, petitioners have shown that a letter was sent to Platt's attorney, asking for Platt's signature on the statement of lack of deceptive intent and on the declaration under 37 CFR 1.63 and 1.67, but that Platt's attorney Barry Schindler of the law firm Greenberg Traurig sent back a letter, dated 18 May, 2007, stating that Platt would not sign the statement of lack of deceptive intent or the declaration under 37 CFR 1.63 and 1.67.

Petitioners have also provided statements of consent of the assignee to the deletion of Vodak Sasak and the addition of David Platt as inventors.

The petition lacks item (2). As discussed *infra*, the decision his held in abeyance pending submission of a declaration signed by an appropriate party on behalf of the inventors.

Petition Under 37 CFR 1.47(a).

With regard to David Platt's refusal to sign the declaration under 37 CFR 1.63 and 1.67, as joint inventors Sasak and Chang signed the original declaration filed on 8 September, 2003, at least one inventor (Yang) was available to sign the declaration. As such, a petition under 37 CFR 1.47(b) is not appropriate.[1] Rather, a petition under 37 CFR 1.47(a) is required with regard to Platt's refusal to sign the declaration under 37 CFR 1.63 and 1.67. Nevertheless, as no inventors are available to sign the declaration naming the actual inventors, an oath or declaration signed by an appropriate party on behalf of the non-signing and signing inventors is required.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

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

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

The petition lacks item (2). As no inventor is available to sign the declaration, although joint inventor Chang signed the original declaration, a declaration under 37 CFR 1.63, 1.64, and 1.67 signed by an appropriate party (*i.e.*, an officer of the corporation (president, vice president, secretary, treasurer, or chief executive officer)). The Officer must identify his or her title in the Declaration. If the Declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.

---

[1] Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. MPEP 409.03(b).

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners lastly assert that inventor Yan Chang has refused to sign the declaration naming him and David Platt as joint inventors.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47 with regard to joint inventor Chang, as noted above. This application bears an original Declaration executed by joint inventor Chang, and thus, the provisions of 37 CFR 1.47 do not apply with regard to Chang's signature. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As stated above, an appropriate declaration signed on behalf of the inventors must be provided. The decision will be held in abeyance pending submission of said declaration.

Counsel's deposit account will be charged the fee for a petition under 37 CFR 1.47, as authorized in the present petition.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Nov-07

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

NOV 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Chang and Platt	:	
Application No. 10/657383	:	ON PETITION
Filed: 09/08/2003	:	
Atty Dckt No. GLYO-P03-002	:	

This is a decision in reference to the renewed petition filed on 1 October, 2007, which is treated as (a) a petition under 37 CFR 1.48(a)(1) requesting a person be deleted as a named inventor; (b) a petition under 37 CFR 1.47(a) and 37 CFR 1.183(a)(1) requesting waiver of 1.48(a)(1) in that a person sought to be added as a named inventor will not sign the statement of lack of deceptive intent or the declaration under 37 CFR 1.63 and 1.67; and (c) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is **GRANTED**.

On 8 September, 2003, the above-identified application was filed with a declaration naming Yan Chang and Vodek Sasak as joint inventors.

On 25 May, 2007, the initial petitions were filed. Petitioners request that Vodek Sasak be deleted and David Platt be added as named inventors under 37 CFR 1.48(a)(1). Petitioners further request waiver under 37 CFR 1.183 of 1.48(a)(1) in as much as Platt refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. A petition under 37 CFR 1.47(b) is requested in that the inventor sought to be added, as well as the existing inventor, refuse to the declaration under 37 CFR 1.63. Lastly, petitioners also request waiver under 37 CFR 1.183 of 1.64 in that a named inventor, Yan Chang, refuses to execute the supplemental declaration naming him as a joint inventor along with David Platt. On 1 August, 2007, the petition was dismissed for lack of a proper oath or declaration.

On 1 October, 2007, the present renewed petition was filed, accompanied by a declaration naming Yan Chang and David Platt as joint inventors, signed on behalf of inventors Chang and Platt by Joseph Grimm, President of assignee of record Prospect Therapeutics, Inc.

Petition Under 37 CFR 1.48(a) and Under 37 CFR 1.183 to Waive 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) 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;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioners have provided a statement of lack of deceptive intent signed by Sasak, filed 30 April, 2007, as well as, with the renwed petition, 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. Additionally, the required fee, and the written consent of the assignee, were provided with the original petition.

As such, the petition under 37 CFR 1.48 is granted with respect to the deletion of Vodak Sasak as a named inventor.

With regard to joint inventor David Platt, petitioners have shown that a letter was sent to Platt's attorney, asking for Platt's signature on the statement of lack of deceptive intent and on the declaration under 37 CFR 1.63 and 1.67, but that Platt's attorney Barry Schindler of the law firm Greenberg Traurig sent back a letter, dated 18 May, 2007, stating that Platt would not sign the statement of lack of deceptive intent or the declaration under 37 CFR 1.63 and 1.67.

Petitioners have also provided statements of consent of the assignee to the deletion of Vodak Sasak and the addition of David Platt as inventors.

Petitioners have provided, with the renewed petition, 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;

In view of the efforts recounted in the petition to obtain the signature of David Platt, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent.

As such, the petition under 37 CFR 1.183 to waive 1.48 is granted with respect to the addition of David Platt as a named inventor.

Petition Under 37 CFR 1.47(a).

With regard to David Platt's refusal to sign the declaration under 37 CFR 1.63 and 1.67, as joint inventors Sasak and Chang signed the original declaration filed on 8 September, 2003, at least one inventor (Yang) was available to sign the declaration. As such, a petition under 37 CFR 1.47(b) is not appropriate.[1] Rather, a petition under 37 CFR 1.47(a) is required with regard to Platt's refusal to sign the declaration under 37 CFR 1.63 and 1.67. Nevertheless, as no inventors are available to sign the declaration naming the actual inventors, an oath or declaration signed by an appropriate party on behalf of the non-signing and signing inventors is required.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

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

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

---

[1] Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. MPEP 409.03(b).

Petitioners have shown that the non-signing inventor, David Platt, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established that a copy of the application was sent to the non-signing inventor via his counsel. The non-signing inventor, however, has failed to return an executed declaration naming him as a joint inventor along with Yan Chang.

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.

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners lastly assert that inventor Yan Chang has refused to sign the declaration naming him and David Platt as joint inventors.

There is no requirement for a showing under 37 CFR 1.47 with regard to joint inventor Chang, as noted above. This application bears an original Declaration executed by joint inventor Chang, and thus, the provisions of 37 CFR 1.47 do not apply with regard to Chang's signature. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

In view of the efforts recounted in the petition to obtain the signature of Yan Chang, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed on 1 October, 2007.

The inventorship will be as stated in the attached corrected filing receipt.

The application is referred to Technology Center Art Unit 1623 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: 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
10/657,383	09/08/2003	1623	481	GLYO-P03-002	22	1

CONFIRMATION NO. 9375

CORRECTED FILING RECEIPT

28120
ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

OC000000026643125

Date Mailed: 11/07/2007

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

Applicant(s)

Yan Chang, Ashland, MA;
David Platt, Newton Center, MA;

Assignment For Published Patent Application

GlycoGenesys, Inc., Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number 28120

Domestic Priority data as claimed by applicant

This application is a CON of 10/176,235 06/20/2002 PAT 6,680,306
which claims benefit of 60/299,991 06/21/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/26/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/657,383**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method for enhancing the effectiveness of cancer therapies

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Nov-07

David Platt
12 Appleton Circle
Newton Center MA 02459

COPY MAILED

NOV 07 2007

OFFICE OF PETITIONS

In re Application of
Chang et al.
Application No. 10/657,383
Filed: September 8, 2003
For: METHOD FOR ENCHANCING THE EFFECTIVENESS OF CANCER THERAPIES

Dear Dr. Platt:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ROPES & GRAY
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 02 2005

OFFICE OF PETITIONS

Applicant: Tramontina et al.
Appl. No.: 10/657,386
Filing Date: September 8, 2003
Title: CONTAINER AND CARTRIDGE FOR DISPENSING PAPER PRODUCTS
Attorney Docket No.: 19,265
Pub. No.: US 2004/0206768 A1
Pub. Date: October 21, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 6, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of a provisional application submitted as a reference in an information disclosure statement.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 6, 2005, was not timely filed under 37 CFR 1.221 (b).

With respect to Applicant's statement that he did not receive a Notice of Publication, the projected publication date was printed on the Filing Receipt.

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7591722	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1500** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 06-04

Paper No: __

LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
Suite 1220
10960 Wilshire Blvd.
Los Angeles CA 90024

COPY MAILED
JUN 07 2004
OFFICE OF PETITIONS

In re Application of:	:	
Bricaud, et al.	:	
Filed: 8 September, 2003	:	DECISION ON PETITION
Application No. 10/657,423	:	
Docket No. C-CPI-0111	:	

This is a decision on the petition filed by Petitioner 22 March, 2004, and treated as a petition under 37 C.F.R. §1.53 requesting that the application obtain a filing date of 8 September, 2003, for page numbered 1 of the application and designated on the copy of that page submitted as the "Abstract."

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

This nonprovisional application was deposited on 8 September, 2003.

On 12 March, 2004, the Office mailed a "Notice to File Corrected Application Papers (Filing Date Granted)" and indicated that the Abstract (also identified as "Page(s) 1 of the specification (description and claims)") appeared to have been omitted from the application.

Petitioner responded with the instant petition on 22 March, 2004, along with, *inter alia*, a copy of the Abstract (also identified as "Page(s) 1 of the specification (description and claims)"), and a copy of the date-stamped (8 September, 2003) receipt card indicating, *inter alia*, that the following items had been received by the Office:

Patent Transmittal Form w/certificate of mailing via Express Mail
Label EV026935178US
Utility Patent Application (36 pages)
49 Sheets of Drawings (Figs. 1 – 57)
Declaration for Patent Application
Check in the amount of $918.00

Notably, as discussed below, the receipt card (see: MPEP §503.[1]) does not specify the pages containing the Abstract, the Specification, and the Claims.

Petitioner alleges that the Abstract is in fact Page 1 of the Application.

A review of the Image File Wrapper (IFW) of this application indicates that it contains pages 2 - 30 of Specification and page 31 of the Claims containing Claims 1 and 2 and at least a portion of Claim 3.

Thus, the file does not appear to contain pages 32 - 36 of the application.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Should Petitioner desire to obtain a filing date for those pages and the matter contained therein, **Petitioner is given one (1) month within which to reply to this decision**.

Therefore, in the interest of consolidating these matters for uniform and efficient consideration, the instant petition is **dismissed**, pending Petitioner's submission of the additional materials (Claims), as discussed above.

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

By mail: (Effective 1 May, 2003)[2]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

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

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

JGJr: 07-04

Paper No: __

LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
Suite 1220
10960 Wilshire Blvd.
Los Angeles CA 90024

COPY MAILED

JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of:
Bricaud, et al.
Filed: 8 September, 2003
Application No. 10/657,423
Docket No. C-CPI-0111

DECISION ON PETITION

This is a decision on the letter, considered as a petition, filed on 14 June, 2004, as well as reconsidering the petition filed on 22 March, 2004, all considered under 37 C.F.R. §1.53 as a request that the application obtain a filing date of 8 September, 2003, for pages numbered 1 (the Abstract) and 32 - 36 (Claims 4 - 17) of the application.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED**.

This nonprovisional application was deposited on 8 September, 2003.

On 12 March, 2004, the Office mailed a "Notice to File Corrected Application Papers (Filing Date Granted)" and indicated that the Abstract (also identified as "Page(s) 1 of the specification (description and claims)") appeared to have been omitted from the application.

Petitioner responded with a petition on 22 March, 2004, along with, *inter alia*, a copy of the Abstract (also identified as "Page(s) 1 of the specification (description and claims)"), and a copy of the date-stamped (8 September, 2003) receipt card indicating, *inter alia*, that the following items had been received by the Office:

Patent Transmittal Form w/certificate of mailing via Express Mail Label EV026935178US
Utility Patent Application (36 pages)

49 Sheets of Drawings (Figs. 1 – 57)
Declaration for Patent Application
Check in the amount of $918.00

As is clear from the foregoing, the receipt card (see: MPEP §503[1]) did not specify the pages containing the Abstract, the Specification, and the Claims, however, Petitioner alleged that the Abstract is in fact Page 1 of the Application.

At the time the 22 March petition was considered and decided, a review of the Image File Wrapper (IFW) of this application indicated that it contained pages 2 - 30 of Specification and page 31 of the Claims (with Claims 1 and 2 and at least a portion of Claim 3), **however, the file did not appear to contain pages 32 - 36 of the application**.

In order to simplify addressing this matter, the 22 March petition was dismissed on 7 June, 2004, with a inquiry to the Petitioner as to whether he wished to address the pages 32 - 36 as well.

Petitioner, by virtue of the papers filed on 14 June, 2004, has done so.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

A review of the application papers reveals that the application in fact was filed and received in the Office on 8 September, 2003, and that a comparison of the date-stamped (8 September, 2003) copy of the receipt card filed by Petitioner and the contents of the file indicate that the file contains, *inter alia*, specification pages 2 - 20 and page 30 of the Claims, along with 49 sheets of drawings (Fig. 1 - 57).

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the page 1 (the Abstract) and pages 32 - 36 (Claims 4 - 17) were submitted on 8 September, 2003, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is refunded via Treasury check; and the Notice mailed on 12 March, 2004, hereby is withdrawn as to page 1 (the Abstract) of the application.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 8 September, 2003, using:

1. pages 2 - 30 (Specification), page 31 (Claims 1 - 3), and 49 sheets of drawings (Figs. 1 - 57), deposited on 8 September, 2003; and

2. page 1 (Abstract), deposited on 22 March, 2004;

3. pages 32 - 36 (Claims 4 - 17), deposited on 14 June, 2004; and further

4. with direction to OIPE to correct Office records to reflect that 36 pages of specification (description, claims and abstract) and 49 sheets of drawings were present on filing on 8 September, 2003, and forward to Petitioner a corrected filing receipt setting forth a filing date of 8 September, 2003, reflecting therein that 36 pages of specification (description, claims and abstract) and 49 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of George P. Emerson Application No. 10/657424 Filing or 371(c) Date: 09/08/2003 Patent No. 6929007 Issue Date: 08/16/2005 Title of Invention: INSUFFLATION-EXSUFFLATION SYSTEM WITH PERCUSSIVE ASSIST FOR REMOVAL OF BRONCHO-PULMONARY SECRETIONS	:	ON PETITION

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

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

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

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

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,427	09/08/2003	Scott Anthony Arvin	G&C 30566.307-US-U1	9022

55895 7590 04/28/2010
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

EXAMINER
KE, PENG

ART UNIT	PAPER NUMBER
2174	

MAIL DATE	DELIVERY MODE
04/28/2010	PAPER

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

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

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

GATES & COOPER LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angles CA 90045

In re Application of:
ARVIN, Scott
Application No. 10/657,427
Filed: September 8, 2003
For: TEMPORARY TEXT AND GRAPHIC FEEDBACK FOR OBJECT MANIPULATORS

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on September 8, 2003, requesting acceptance of color drawings.

The petition requests that the color drawing Figure 6 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and was filed with three (3) copies of color drawings of Figure 6. Paragraph [0016] of the specification contains the required notification described above.

Accordingly, the petition is **GRANTED**.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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

COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Roger Gustavsson	: DECISION ON REQUEST FOR
Patent Number	: 7616944	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,446	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 1 8 2005

OFFICE OF PETITIONS

JAMES MARC LEAS
37 BUTLER DRIVE
S. BURLINGTON, VT 05403

In re Application of	:
William B. Parker et al	:DECISION ON PETITIONS
Application No. 10/657,451	:UNDER 37 CFR 1.78(a)(3)
Filed: September 8, 2003	:AND 37 CFR 1.78(a)(6)
Attorney Docket No. B6603-0003	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 08/972,464, filed November 14, 1997.

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.

The petition was accompanied by an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed application, as well as to provisional Application No. 60/030,962.

This nonprovisional application was filed on September 8, 2003, and was pending at the time of filing of this 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 this 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 prior-filed Application No. 08/972,464 in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's credit card.

It is noted that the amendment to the claim for priority to prior-filed Application No. 08/972,464 submitted with the petition fails to set forth the relationship of that application to the present application; i.e., the amendment merely states that "This application claims the benefit of U.S. Patent Application 08/972,464 * * *." The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-art of a prior-filed nonprovisional application.

Petitioner is reminded that, even if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. § 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence of the specification and all other requirements are met. *Note* MPEP § 201.11 D. Reference Must Be Included in the Specification or an Application Data Sheet.

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 Technology Center AU 2872 for appropriate action as the nature of the case may require.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO CA 90245-0956

In re Application of
Frank A. Taormina, et al.
Application No. 10/657,452
Filed: September 05, 2003
For: SATELLITE SYSTEM AND METHOD OF DEPLOYING SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on April 06, 2005.

A review of the record indicates the application was held abandoned for failing to file a reply to the Restriction requirement, mailed February 11, 2004, which set a one-month shortened statutory period for reply. A Notice of Abandonment was mailed on February 01, 2005.

The petition is **GRANTED** in view of the timely filed Certificate of Mailing/Transmission signed on March 02, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

The USPTO return facsimile receipt dated March 02, 2004 is insufficient evidence to accord the filing date of the original to the copy as it fails to reference the application by serial number or other acceptable identifying data.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for an expeditious Action.

for

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

RAR/rjc 07/26/05

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 13 2004

In re Application of	:	
Michael R. DeLuca	:	DECISION ON PETITION
Application No. 10/657,461	:	
Filed: January 21, 2003	:	
Attorney Docket No. 1117-R-03	:	

This is a decision on the petition to make special filed on November 17, 2003. The petition is based upon the practice described in MPEP § 708.02(VIII) "Accelerated Examination. The $130.00 petition fee has been paid.

The petition is granted.

The petition to make special based upon the practice in the above mentioned MPEP sections is deemed to satisfy all of the requirements thereof. Accordingly, the examiner will treat this application as special throughout its prosecution, in accordance with the examining practice set forth in items (A)-(E) pm [age 700-130 of the MPEP. 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 3744 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

IP Department of Piper Rudnick LLP
One Liberty Place
Suite 4900
1650 Market St.
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

COPY MAILED

DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Fred S. Cook	:	
Application No. 10/657,469	:	DECISION ON PETITION
Filed: September 8, 2003	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: 1387A	:	
Title: VALIDATING A TRANSACTION	:	
WITH USER VOICE AUTHENTICATION	:	
USING WIRELESS COMMUNICATIONS	:	

This is a decision on the petition filed on August 2, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 23, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 24, 2005. A notice of abandonment was mailed on June 28, 2006.

---

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.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition 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, which was received with the present petition, can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the 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. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

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

---

2 See 37 CFR 10.18(b); cf. 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).

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

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

cc: Kyle J. Way
P.O. Box 780
Erie, CO 80516

---

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

MURAMATSU & ASSOCIATES
114 PACIFICA
SUITE 310
IRVINE CA 92618

COPY MAILED

JAN 04 2010

In re Application of	:	
Naoto Hirota	:	
Application No. 10/657,470	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. KANEKO.008AUS	:	

This is a decision on the petition, filed October 19, 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 **DISMISSED**.

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

This application was held abandoned for failure to file a proper reply in a timely manner to the Final Rejection mailed September 26, 2008. A Notice of Abandonment was mailed on August 4, 2009.

Applicant files the present petition and states that a reply to the Office action mailed September 26, 2008, was timely filed on March 24, 2009 with payment of a 3-month extension fee. Applicant provides a copy of the above.

The Office is in receipt of the reply received on April 6, 2009. However, an Advisory Action was mailed on May 4, 2009, stating that, "THE REPLY FILED 06 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE." The Advisory Action also stated that the period for reply expires 3 months from the mailing date of the final rejection.

As stated in the Notice of Abandonment mailed August 4, 2009, "The maximum time period for reply to the 9/26/08 Final Rejection is six months (37 CFR 1.134). The RCE filed on 5/26/09 (received 6/4/09) was filed after the expiration of the maximum time period for reply, which expired on 3/26/09. 37 CFR 1.136(a)(1) does not allow for extension of time beyond the maximum period set by statute."

In view of the above, and since a **proper** reply was not filed prior to the maximum time period for reply, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is **dismissed**.

Petitioner may with to consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 13 2010

OFFICE OF PETITIONS

MURAMATSU & ASSOCIATES
114 PACIFICA
SUITE 310
IRVINE CA 92618

In re Application of	:	
Naoto Hirota	:	
Application No. 10/657,470	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. KANEKO.008AUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed September 26, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2871 for appropriate action by the Examiner in the normal course of business on the reply received June 4, 2009 and October 19, 2009.

/KOC/
Karen Creasy
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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 04/23/2010

Applicant	: Umesh Mahajan	: DECISION ON REQUEST FOR
Patent Number	: 7606177	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **790** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

COPY MAILED

APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Zomer et al.	:	DECISION ON PETITION
Application No. 10/657,508	:	
Filed: September 8, 2003	:	
Atty Docket No. 089918-020600	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 26, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 23, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective November 24, 2007. A courtesy Notice of Abandonment was mailed on April 24, 2008.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1623 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed February 26, 2008.

The petition also includes a payment of the fee of $1050 for extension for response within the third month. The maximum period for extension for response to the Notice ended on February 23, 2008. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee for such extension is being refunded to Deposit Account No. 50-1561, as authorized.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 19 2004

Office of the Director
Group 3600

Brian Roffe, Esq.
11 Sunrise Plaza, Suite 303
Valley Stream, NY 11580-6170

In re application of
David S. Breed et al.
Application No. 10/657,547
Filed: September 8, 2003
For: METHOD AND APPARATUS FOR CONTROLLING A VEHICLE DOOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 14, 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 applicant's U.S. passport which indicates that inventor Breed is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 3/23/04

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
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 900
PALO ALTO, CA 94306

COPY MAILED

JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Lewis B. Aronson et al :
Application No. 10/657,554 :
Filed: September 4, 2003 :
Attorney Docket No. 9775-0197-999 :

ON PETITION

This is a decision on the petition, filed July 15, 2004, to change the name of inventor Stephen G. Hosking to Lucy G. Hosking.

The petition is **GRANTED.**

The Power of Attorney filed July 14, 2004 is not accepted since it is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. 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 record until such time as appropriate Power of Attorney documentations are received to the contrary. A blank 37 CFR 3.73(b) accompanies this decision.

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

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

cc:

Morgan, Lewis & Bockius LLP
3300 Hillview Avenue
Palo Alto, CA 94304

Attachments: Corrected Filing Receipt, A blank 37 CFR 3.73(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

MORISHITA LAW FIRM LLC
3800 HOWARD HUGHES PARKWAY
SUITE 850
LAS VEGAS, NV 89109

COPY MAILED

JUN 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Philip Scanlan	:	
Application No. 10/657,555	:	DECISION ON PETITIONS
Filed: September 4, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WORLDLING003-02	:	AND 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(2), filed February 7, 2006, which is being treated as both a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c)[1] to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No.PCT/AU02/00249, filed March 5, 2002, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign Application No. PR3607, filed March 6, 2001, as set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

The petition does not satisfy item (1).

[1] It is appropriate here to treat the petition also as one under 37 CFR 1.55(c). In this regard, although a reference to the foreign application was made in the declaration at the time of filing, the Office did not recognize the priority claim since the foreign application was filed more than one year from the filing date of this application.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed 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 application. An example of an appropriate reference to a PCT application in the first sentence of the specification is: "This application is a continuation of International Application PCT/EP2004/00000, with an international filing date of January 5, 2004, now abandoned." *See* MPEP Section 1895.01. A benefit claim that merely states: "This application claims the priority of commonly owned PCT Application Serial No. PCT/AU02/00249" 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 prior-filed application (if it is patented or abandoned) should also be indicated, following the filing date of the parent application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The present amendment fails to comply with 37 CFR 1.72(a)(2)(i) and is therefore unacceptable.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (5) above. Without a grantable petition to accept the delayed claim for benefit of the PCT application, it would be inappropriate to accept the late claim for priority to the foreign application since the filing date of the foreign application is more

than one year from the filing date of the present application. Once the petition to accept the late claim for benefit of priority to the PCT application under 37 CFR 1.78(a)(3) has been granted, then the claim for priority to the foreign application would be acceptable.

Before the petition for a late claim for benefit of priority to the PCT and foreign applications can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 37 CFR 1.55(c) and an Application Data Sheet or a proper amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed PCT application to this application, are required. Petitioner is advised that the reference to the foreign application is more appropriately made in the oath or declaration or an Application Data Sheet, not as part of an amendment to the first line of the specification following the title.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

RAEF M. SHALTOUT
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
FOBIAN, et al.	:	
Application No. 10/657,567	:	DECISION GRANTING PETITION
Filed: September 8, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02-760-A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 14, 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 April 27, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: B. Martin Hill	: DECISION ON REQUEST FOR
Patent Number	: 7617504	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,579	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1473** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN -1 2006

DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192

In re Application of: Cremers, et al.
Appl. No.: 10/657,583
Filed: September 8, 2003
For: Taco Shell Nesting Apparatus and Method

DECISION ON PETITION

This is a decision on the petition filed on August 5, 2005 by which petitioners request withdrawal of the restriction requirement made FINAL in paper No. 05312005 dated June 6, 2006 and that claims 1-17 and 32 be examined in this application. The petition is considered pursuant to 37 CFR 1.181 and 37 CFR 1.144, and no fee is required.

The petition is GRANTED

Review of the application and of the claims shows that the Examiner initially required restriction in paper No. 01062005 dated January 7, 2005 between seven groupings among claims 1-31 directed to various disclosed subcombinations and methods. In response to the initial requirement, Applicant elected, with traverse, the subcombination of Group I, claims 1-4, and cancelled method claims 18-31 apparently agreeing with the restriction between the claimed methods and apparatus as per pages 4 and 5, the bridging paragraph, of this petition. New claim 32 was added as a combination claim and included all the particulars of each claimed subcombination.

In paper No. 05312005 dated June 6, 2006, the Examiner redrafted the restriction requirement by grouping the claims into five groups; Groups I-IV for the various subcombinations and Group V for the combination. The Examiner justified the restriction based on the MPEP section 806.05 (d) for requiring restriction between subcombinations usable together. The Examiner has shown that each subcombination, as claimed, has utility other than in the disclosed combination. Furthermore, since each subcombination as claimed do not overlap in scope, i.e., each subcombination claim sets forth limitations only for that subcombination and not any of the others, and since each subcombination as claimed are not obvious variants, distinctness between the four subcombinations exists. Also, in satisfying whether a burden exists to examine all the claimed inventions, the Examiner's reasoning that each subcombination as claimed would involve separate fields of search has not been contested by Applicant. Moreover, it is most apparent that the subcombinations, as claimed, do in fact involve such divergent subject matter that would lead to diverging fields of search and impose a serious burden on the Examiner.

However, the Examiner's justification in restricting between the invention of Group V (claim 32) and the inventions of Groups I-IV (claims 1-17) is not in accordance with the guidelines defined in the MPEP 806.05(c). In order to show distinctness here, the Examiner must demonstrate two things: 1) that the "combination as claimed does not require the particulars of the subcombination as claimed for patentability" and 2) that "the subcombination can be shown to have utility either by itself or in another and materially different combination". Clearly every word of independent subcombination claims 1, 5, 11 and 15, verbatim, is included in independent combination claim 32. Since the combination as claimed does require the particulars of each subcombination as claimed, the inventions cannot be considered distinct. The Examiner's reasoning that "the combination as claimed does not require the particulars of the subcombination as claimed for patentability because other [each] subcombination in the combination is also patentable by itself" is not commensurate with the guidelines defined above.

As per guidelines set forth in the MPEP section 806.05, "Where two or more inventions are claimed, the principal question to be determined in connection with a requirement to restrict or a rejection on the ground of double patenting is whether or not the inventions are distinct. If they are distinct, restriction may be proper. If they are not distinct, restriction is never proper. If non-distinct inventions are claimed in separate applications or patents, double patenting must be held, except where the additional applications were filed consonant with a requirement to restrict."

Should Applicant be compelled to file any of the subcombination inventions or the combination invention in divisional applications which complies with the requirements of 35 U.S.C. 120 as a result of the restriction requirement made in this application, a double patenting rejection would be prohibited under 35 U.S.C. 121. Therefore, the restriction between Groups I-V as delineated by the Examiner must be considered improper and claims 1-17 and 32 must be given full consideration on the merits.

For the reasons outlined above, the restriction requirement promulgated and construed as being made final is not in accordance with proper Office procedure. Accordingly, the Office action rendered in paper No. 05312005 is hereby vacated.

As a further procedural note, as this petition grants Petitioner relief from the restriction requirement, the amendment presented August 23, 2005 is deemed responsive to which a new Office action will be rendered. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3721 who will have the examiner promulgate an action on the merits of the presently pending claims not inconsistent with this Decision.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 2 2 2007

OFFICE OF PETITIONS

PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

In re Patent No. 7,070,071	: DECISION UNDER 37 CFR
Issued: July 4, 2006	: 1.705(d) and NOTICE OF
Application No. 10/657,594	: INTENT TO ISSUE CERTIFICATE
Filed: September 8, 2003	: OF CORRECTION
Atty. Dkt. No.: PC27730A	:

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181," filed July 3, 2006. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,070,071 on July 4, 2006. The instant request for reconsideration was timely filed July 3, 2006 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 216 days. Patentees argue that the patent is entitled to an adjustment of 244 days.

At the time of issuance, the adjustment totaling 386 days was reduced 170 days for applicants' failure to engage in reasonable efforts to conclude prosecution or processing.

The adjustments for Office delays were as follows: 365 days under 37 CFR 1.702(a)(1) and 1.703(a)(1) and 21 days under 37 CFR 1.702(a)(4) and 1.703(a)(6).

The reductions for applicants' delays were as follows: 28 days under 37 CFR 1.704(b) (in connection with the reply to the Notice to File Missing Parts submitted April 12, 2004); 73 days under 37 CFR 1.704(c)(10) (in connection with the IDS submitted January 30, 2006); and 69 days under 37 CFR 1.704(c)(10) (in connection with the IDS submitted April 27, 2006).

Review of the record reveals that the reduction of 69 days is in error and that the correct reduction in connection with the IDS submitted April 27, 2006 is 22 days. The reduction began April 27, 2006, the date the IDS was filed, and ended May 18, 2006,

the date the Supplemental Notice of Allowance in response to the IDS was mailed. *See*, 37 CFR 1.704(c)(10).

Patentees acquiesced to the reductions of 73 days and 69 days (the reduction of 69 days has been sua sponte recalculated to 22 days as indicated herein). Patentees presumably contest the reduction of 28 days in connection with applicants' response to the Notice to File Missing Parts mailed December 15, 2003.

As to the reduction of 28 days under 37 CFR 1.704(b), patentees are reminded that any request for reconsideration under 37 CFR 1.705 that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 28 day reduction contested by patentee could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed.

Accordingly, at the time of issuance, the patent was entitled to an overall adjustment of 263 days.

The required application fee of $200.00 has been charged to Deposit Account 50-0329 as authorized.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 will not be permitted.

The address indicated on the application for patent term adjustment differs from the correspondence address of record. If practitioner desires to receive future correspondence regarding this patent, the appropriate change of correspondence address documentation must be submitted. A courtesy copy of this decision will be mailed to practitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 263 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

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

Enclosure: Draft Certificate of Correction

CC: EDWARD D. ROBINSON
AGOURON PHARMACEUTICALS, INC./A PFIZER COMPANY
PATENT DEPARTMENT
10777 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

PALM INTRANET

Day : Friday
Date: 3/2/2007
Time: 10:14:04

PTA Calculations for Application: 10/657594			
Application Filing Date:	09/08/2003	PTO Delay (PTO):	386
Issue Date of Patent:	07/04/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	170
Post-Issue Petitions:	0	Total PTA (days):	263
PTO Delay Adjustment:	47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	69		
62	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		22	
58	07/04/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	21		43
57	06/01/2006	EXPORT TO FINAL DATA CAPTURE			
56	05/31/2006	DISPATCH TO FDC			
55	04/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	05/18/2006	MAILING CORRECTED NOTICE OF ALLOWABILITY			
53	05/15/2006	CORRECTED NOTICE OF ALLOWABILITY			
52	04/27/2006	REFERENCE CAPTURE ON IDS			
51	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		69	50
50	04/12/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
49	04/10/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
48	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	03/02/2006	FINISHED INITIAL DATA CAPTURE			
46	01/30/2006	REFERENCE CAPTURE ON IDS			
45	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		73	50
44	02/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
43	02/13/2006	ISSUE FEE PAYMENT VERIFIED			
42	02/13/2006	ISSUE FEE PAYMENT RECEIVED			
41	01/25/2006	EXPORT TO INITIAL DATA CAPTURE			

38	01/20/2006	MAIL NOTICE OF ALLOWANCE			
37	01/19/2006	ISSUE REVISION COMPLETED			
36	01/19/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	01/09/2006	NOTICE OF ALLOWABILITY			
34	01/06/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	12/17/2005	DATE FORWARDED TO EXAMINER			
31	12/12/2005	RESPONSE AFTER EX PARTE QUAYLE ACTION			
30	11/08/2005	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)	365		-1
29	11/03/2005	EX PARTE QUAYLE ACTION			
28	05/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	05/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	04/12/2004	REFERENCE CAPTURE ON IDS			
25	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	04/12/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
23	09/08/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
22	09/08/2003	PRELIMINARY AMENDMENT			
21	04/26/2004	APPLICATION RETURN FROM OIPE			
20	04/26/2004	APPLICATION RETURN TO OIPE			
19	04/26/2004	APPLICATION RETURN FROM OIPE			
18	04/27/2004	APPLICATION IS NOW COMPLETE			
17	04/26/2004	APPLICATION RETURN TO OIPE			
16	04/26/2004	APPLICATION RETURN FROM OIPE			
15	04/27/2004	APPLICATION IS NOW COMPLETE			
14	04/26/2004	APPLICATION RETURN TO OIPE			
13	04/26/2004	APPLICATION RETURN FROM OIPE			
12	04/26/2004	APPLICATION IS NOW COMPLETE			
11	04/26/2004	APPLICATION RETURN TO OIPE			
10	04/26/2004	APPLICATION DISPATCHED FROM OIPE			
9	04/26/2004	APPLICATION IS NOW COMPLETE			
8	04/12/2004	ADDITIONAL APPLICATION FILING FEES		28,	6
		A STATEMENT BY ONE OR MORE INVENTORS			

7	04/12/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/15/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/20/2003	CASE CLASSIFIED BY L&R			
3	11/20/2003	CLEARED BY OIPE CSR			
2	11/04/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/08/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,070,071 B2

DATED : July 4, 2006

INVENTOR(S) : Pavlu, 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 216 days

Delete the phrase "by 216 days" and insert – by 263 days--

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.
10/657,595	09/08/2003	Ronald L. Mahany	14406US03	5619

23446 7590 01/04/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
01/04/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 04 2008

TECHNOLOGY CENTER 2100

Gregory D. Leibold
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Ronald Mahany et al.
Appl. No.: 10/657595
Filed: September 8, 2003
For: RADIO FREQUENCY LOCAL AREA NETWORK

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 7 November 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information in six references, listed as Cite No. C27, C28, C29, C119, C120, and C431, submitted in an Information Disclosure Statement, filed June 3, 2006, be expunged from the record. Petitioner states that failure to obtain its return would cause irreparable harm to Applicant, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. 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 petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on June 3, 2006 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

The identified documents are currently not available for public view as of December 21, 2007. It is noted that the instant application has been published on April 21, 2005. Thus, the identified documents submitted on June 3, 2006 have already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

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

Mano Padmanabhan

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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.
10/657,595	09/08/2003	Ronald L. Mahany	14406US03	5619

23446 7590 03/25/2009
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
03/25/2009	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.

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of:
Ronald Mahany et al.
Appl. No.: 10/657,595
Filed: September 8, 2003
For: COMMUNICATION NETWORK HAVING A PLURALITY OF BRIDGING NODES WHICH TRANSMIT A BEACON TO TERMINAL NODES IN POWER SAVING STATE THAT IT HAS MESSAGES AWAITING DELIVERY

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed February 18, 2009, to expunge the information in six references, listed as Cite No. C27, C28, C29, C119, C120, and C431, unintentionally submitted in an Information Disclosure Statement on 6/5/2006.

The petition is **GRANTED.**

Petitioner requests that the unintentionally submitted information entitled

C27 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Compatability Standard, Draft Rev. 0", 07/31/1990, Bates Nos. QBB 138614-832

C28 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Compatability Standard, Draft Rev. 1 ", 10/01/1990, Bates Nos. QBB 138833-9249

C29 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Comparability Standard, Draft Rev. 1.1", 07/15/1991, Bates Nos. QBB 139250-858

C119 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.12", 03/16/1992

C120 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.13", 03/23/1992

C431 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.14", 04/21/1992

filed on June 3, 2006 be expunged from the record and returned to applicant. Petitioner states that the failure to obtain the return of the unintentionally submitted information would cause irreparable harm to applicant. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Accordingly, the documents referred to above as C27, C28, C29, C119, C120, and C431 will be expunged from the record.

The expunged material has been closed from public view and will not be returned to applicant.

The identified documents are currently not available for public view as of December 21, 2007. It is noted that the instant application has been published on April 21, 2005. Thus, the IDS filed on June 3, 2006, and the identified documents submitted on June 3, 2006 have already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

It is noted that applicants must submit a new IDS to replace the IDS that was submitted on June 3, 2006, listing all the documents other than the expunged documents, if the Applicant wishes the office to consider those documents.

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

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

Mano Padmanabhan

Mano Padmanabhan,
WQAS 2180, Technology Center 2100
Computer Architecture, Software, and Information Security

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

SLATER & MATSIL
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Wen-Chin Lee et al	:	
Application No. 10/657,616	:	ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. TSM03-0587	:	

This is a decision on the petition, filed March 16, 2005, to correct the incorrectly spelled name of one of the named inventors.

The petition is **DISMISSED** as moot.

The declaration submitted with the original application listed the second-named inventor as "Chung-Hu Ge." The instant petition states that the name should have been "Chung-Hu Ke." Since the petition involves a name correction, rather than a name change. Therefore, the petition is dismissed as involving a moot issue.[1] A copy of the corrected filing receipt is enclosed.

No fee is required and none has been charged.

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

This matter is being referred to Technology Center AU 2813.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

---

[1] MPEP 605.04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/657,619	09/08/2003	1774	750	00630.0320-US-D3	17	5	1

CONFIRMATION NO. 1057

CORRECTED FILING RECEIPT

OC000000012889880

Michael B. Lasky
Altera Law Group
Suite 100
6500 City West Parkway
Minneapolis, MN 55344-7704

Date Mailed: 06/07/2004

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

Applicant(s)

Martin Reed Bodley, Sudbury, MA;
Ian Paul Smith, Merrimack, NH;
Stephen R. Lyman, Hudson, NH;
Christian Bjerrum-Niese, Copenhagen, DENMARK;
Paul Wojciak, Merrimack, NH;
Charles L. Pederson, Virum, DENMARK;

Assignment For Published Patent Application

GN Netcom, Inc.;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/813,103 03/19/2001

Foreign Applications

DENMARK PA 2000 000765 05/09/2000

If Required, Foreign Filing License Granted: 12/08/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Headset communication unit

Preliminary Class

503

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

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

COPY MAILED

NOV 02 2005

OFFICE OF PETITIONS

Applicant: Sanders et al.
Appl. No.: 10/657,621
Filing Date: September 8, 2003
Title: CONTAINER AND CARTRIDGE FOR DISPENSING PAPER PRODUCTS
Attorney Docket No.: 18,279
Pub. No.: US 2004/0206769 A1
Pub. Date: October 21, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 6, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of a provisional application submitted as a reference in an information disclosure statement.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 6, 2005, was not timely filed under 37 CFR 1.221 (b).

With respect to Applicant's statement that he did not receive a Notice of Publication, the projected publication date was printed on the Filing Receipt.

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Rudolf J. Dams	: DECISION ON REQUEST FOR
Patent Number	: 7652115	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

caj

Mailed : 8/31/06

In re Application of	:	DECISION ON
H. Kashiwagi et al.	:	PETITION
Serial No. 10/657,661	:	
Filed: September 9, 2003		
For: SILVER SALT PHOTOTHERMOGRAPHIC DRY IMAGING MATERIAL		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed May 31, 2006.

The instant petition was filed on June 20, 2006. In the petition, it is urged that the final office action mailed May 31, 2006 was improperly made final.

DECISION

It is noted that the examiner prepared a new non-final office action which was mailed on August 17, 2006. The previous final office action was withdrawn thereby making the instant petition moot. Accordingly the petition is **DISMISSED.**

Jacqueline M. Stone

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

LUCAS & MERCANTI, L.L.P.
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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

ANGELA FOSTER, PHD, ESQ.
2906 BIRCHWOOD COURT
NORTH BRUNSWICK NJ 08902-3933

COPY MAILED

JUL 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
HETTIARACHCHY, NAVAM S. et al	:	
Application No. 10/657,692	:	DECISION ON PETITION
Filed: September 8, 203	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. UAF-I02-21	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the application data sheet filed on June 15, 2006.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

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

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

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

The application is being forwarded to Technology Center AU 1653 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-06

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

In re Patent No. 6,900,330	:	
Issued: 31 May, 2005	:	
Application No. 10/657,732	:	ON PETITION
Filed: 8 September, 2003	:	
Atty Dckt No. 0149-031767	:	

This is a decision on the petition filed on 25 November, 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.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC
STEVE T. ZELSON
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

COPY MAILED
FEB 12 2008
OFFICE OF PETITIONS

In re Application of	:	
Coe et al.	:	
Application No. 10/657,738	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. PC25077A	:	

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

The Notice of Appeal filed July 31, 2007, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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

This matter is being referred to Technology Center 1600 for further processing.

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

PFIZER INC
Steve T. Zelson
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

COPY MAILED

APR 1 5 2009

OFFICE OF PETITIONS

In re Patent No. 7,442,694	:	
Coe et al.	:	LETTER REGARDING PATENT
Issue Date: October 28, 2008	:	TERM ADJUSTMENT AND
Application No. 10/657,738	:	NOTICE OF INTENT TO ISSUE
Filed: September 8, 2003	:	CERTIFICATE OF CORRECTION
Attorney Docket No. PC25077A	:	

This letter is in response to the "Letter in Compliance with A Practitioner's Duty of Candor and Good Faith Request Review of PTA under 37 CFR 1.700," filed October 8, 2008, which is properly treated as a 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 indicated herein**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **243 days**.

On August 15, 2008, the Office mailed the initial 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 was 30 days. On October 8, 2008, applicants submitted the instant comment. On October 28, 2008, the above-identified application matured into U.S. Patent No. 7,442,694, with a revised determination of patent term adjustment of 280 days.

Patentees disclose that they believe that determination of patent term adjustment is incorrect and that they should have been assessed a delay under 37 CFR 1.703(c) for the abandonment of the application. Additionally, patentees contend that period of reduction of 215 days under 37 CFR 1.704(b) "is moot in light of the reduction under 37 CFR 1.704(c)(3)." *Letter dated 10/08/08, p. 1.*

The application history has been reviewed and it has been determined that the revised determination of patent term adjustment of 280 days is incorrect.

Pursuant to 37 CFR 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping.
>
> > (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
> >
> > (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
> >
> > (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed[.]

A review of the record reveals that patentees should have been assessed a delay of 248 days for the abandonment of the application. See 37 CFR 1.704(c)(3)(ii). A final Office action was mailed on September 28, 2006, which set a three-month shortened statutory period for reply. On March 27, 2007, patentees obtained an extension of time for response within the third month. However, patentees did not file a timely and proper reply to the final Office action within the six-month

statutory response period. Thus, the application became abandoned on March 29, 2007. On July 31, 2007, patentees submitted a petition under 37 CFR 1.137(b) to revive the application, a petition fee, a proper statement of unintentional delay, and a reply in the form of a Notice of Appeal. A decision granting the petition to revive was mailed on February 12, 2008. Accordingly, a period of reduction of 248 days should have been entered; counting the number of days beginning on the date of abandonment, March 29, 2007, and ending on the earlier of the date that is four months after the date the grantable petition to revive the application was filed, December 1, 2007. See 37 CFR 1.704(c)(3)(ii). Accordingly, a period of reduction of 248 days will be entered.

Additionally, patentees are correct that the period of reduction under 37 CFR 1.704(b) of 215 days for the filing of the Notice of Appeal on July 31, 2007, is not warranted. Accordingly, the period of reduction of 215 days will be removed.

Lastly, it appears that the period of adjustment under 37 CFR 1.702(b)(1)[1] of 585 days is incorrect. The record reveals that patentees filed a RCE on April 11, 2008. Thus, the RCE cuts-off the ability to accumulate additional patent term adjustment against the three-year pendency provision, but does not otherwise effect patent term adjustment. Accordingly, the period of adjustment under 37 CFR 1.702(b) should be 581 days (not 585 days), counting the number of days beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), September 9, 2006,

---

[1] 37 CFR 1.702(b)(1) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b)[.]

and ending on the date the RCE was filed, April 11, 2008. See 37 CFR 1.703(b)(1)[2]. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 581 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 335 days attributable to grounds specified in § 1.702(a)(1) and (2). Thus, at issuance, only an additional period of adjustment of 246 days (not 250 days) should have been entered for Office delay for a total of 581 days.

In view thereof, the patent should have issued with a revised patent term adjustment of **243 days** (581 days of Office delay - 338 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees

---

[2] 37 CFR 1.703(b) provides:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued[.]

for patentees' good faith and candor in bringing this to the attention of the Office.

The application 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 **243 days**.

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 DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,442,694 B2

DATED : Oct. 28, 2008

INVENTOR(S) : Coe 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 (280) days

Delete the phrase "by 280 days" and insert – by 243 days--

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

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

COPY MAILED

JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
PRIEM, Dan G. :
Application No. 10/657,758 : DECISION ON PETITION
Filed: 10/657,758 : TO WITHDRAW
Attorney Docket No. 1094.204US1 : 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 24, 2006.

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

A review of the file record indicates that the power of attorney to SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA has been revoked by the assignee of the patent application on November 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HAMRE, SCHUMANN, MUELLER & LARSON, P.C.**
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

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.

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

COPY MAILED
NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Salvatore Pace and	:	
James Youngblood III	:	DECISION ACCORDING STATUS
Application No. 10/657,760	:	UNDER 37 C.F.R. § 1.47(a)
Filed: September 8, 2003	:	
Atty Docket No. 30506/39552	:	
	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a) filed March 22, 2004. This petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on September 8, 2003, without an executed oath or declaration. Accordingly, on December 18, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing. This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition, made timely by an accompanying petition and fee for extension of time within the second month. The petition included a declaration executed by joint inventor Youngblood on behalf of himself and on behalf of non-signing inventor Pace. Applicant asserts that status under 1.47(a) is proper because joint inventor Pace refuses to

join in the application. By statement of facts of patent attorney Michael Muczynski, and based on first hand knowledge and with supporting documentary evidence, applicant shows that after having been presented with the application papers inventor Pace has expressly refused to join in the application.

The declaration filed March 22, 2004, has been reviewed and found in compliance with § 1.63. The petition includes the petition fee and the last known address of inventor Pace.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Salvatore Pace
2048 Rouse Creek Court
Ann Arbor MI 48108

COPY MAILED
NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Salvatore Pace and	:	
James Youngblood III	:	LETTER
Application No. 10/657,760	:	
Filed: September 8, 2003	:	
Atty Docket No. 30506/39552	:	

Dear Mr. Pace:

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 (571) 272-3219. 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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Poon Fung
20375 Via Volante
Cupertino CA 95014

COPY MAILED

APR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Fung, et al.
Application No. 10/657,770
Filed: September 8, 2003
Attorney Docket No. IAM-001
For: METHOD FOR TRACING APPLICATION EXECUTION PATH IN A DISTRIBUTED DATA PROCESSING SYSTEM

DECISION ON PETITION

This is a decision on the petition filed February 5, 2004 requesting that Figures 10 and 11 be accorded a filing date of September 8, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on September 8, 2003. On December 15, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that Figures 10 and 11, as described in the specification, appeared to have been omitted.

Petitioners request that Figures 10 and 11 be accorded a filing date of September 8, 2003 on the basis that 11 sheets of drawing figures, including Figures 10 and 11, were received in the Patent and Trademark Office (PTO) on September 8, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 8, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 11 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 11 sheets of drawings were filed on September 8, 2003. MPEP 503. A review of the application file reveals that there are 10 pages of drawings present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. The $130.00 fee submitted with the instant petition will be refunded by way of a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 8, 2003**, using the copy of Figures 10 and 11 submitted with the instant petition. Office records will be corrected to show that 11 sheets of drawings were present on initial filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL
JUL 17 2008
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Christopher C. Winslade
McAndrews, Held & Malloy
500 W. Madison Street, Suite 3400
Chicago IL 60661

In re Application of
GOLLNICK, CHARLES D., et. al.
Application No. 10/657785
Filed: September 9, 2003
Attorney Docket Number: **14206US03**
For: **NETWORK SUPPORTING ROAMING, SLEEPING TERMINALS**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed November 8, 2007, 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 the proprietary material submitted March 20, 2007, be expunged from the record. Petitioner states 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, 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 returned to applicant.

The document in question will not be available to the public during prosecution.

/Eileen D. Lillis/

Eileen D. Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

COPY MAILED
JUN 11 2007
OFFICE OF PETITIONS

In re Application of :
REILEY, Mark A. :
Application No. 10/657,837 : DECISION ON PETITION
Filed: September 9, 2003 : TO WITHDRAW
Attorney Docket No. 9448.17205-CIP DIV 6 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

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

A review of the file record indicates that the power of attorney to WILSON SONSINI GOODRICH & ROSATI has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAY LAW GROUP LLP**
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO CA 94403

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

SHAY LAW GROUP LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

COPY MAILED

AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Reiley, Mark A.	:	
Application No. 10/657,837	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 10002-701.406	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

An appeal brief was also submitted on May 23, 2007.

This matter is being referred to Technology Center 3700 for further processing.

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

MAILED

MAY 25 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

In re application of
Allen J. Gerbino
Application No. 10/657,838
Filed: September 09, 2003
For: RETRACTABLE LIFTING BLADES FOR AIRCRAFT

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 22, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Gerbino indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

KJD/slb: 05/24/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 25 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

In re application of
Allen J. Gerbino
Application No. 10/657,838
Filed: September 09, 2003
For: RETRACTABLE LIFTING BLADES FOR AIRCRAFT

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 22, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Gerbino indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

KJD/slb: 05/24/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 8, 2006

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/657842 Patent No.: 7,044,586 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
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

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: Christopher J. Murphy	: DECISION ON REQUEST FOR
Patent Number	: 7592023	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/657,851	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

MAR 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Kenneth M. MARTIN, et al	:	
Application No. 10/657,854	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. IMM050B	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 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)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 6, 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 January 7, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center 2629 for further processing in the normal course of business.

/DCG/
Diane C. Goodwyn
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

HARNESS DICKEY & PIERCE, P.L.C.
7700 BONHOMM, SUITE 400
ST. LOUIS, MO 63105

COPY MAILED

JUN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee Remmers	:	
Application No. 10/657,855	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 10789.0049.C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 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 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.

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

This matter is being referred to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON & SHERIDAN LLP
LUCENT TECHNOLOGIES, INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NY 07702

COPY MAILED
SEP 07 2006
OFFICE OF PETITIONS

In re Application of
Christopher Richard Doerr et al
Application No. 10/657,862
Filed: September 9, 2003
Attorney Docket No. Doerr 73-13
(LCNT/125620)

: 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 April 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/378,411, filed March 3, 2003, as 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 benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2883 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
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/657,862	09/09/2003	2883	996	Doerr 73-13 (LCNT/125620)	9	29	4

CONFIRMATION NO. 2054

CORRECTED FILING RECEIPT

OC000000020324511

46363
PATTERSON & SHERIDAN, LLP/
LUCENT TECHNOLOGIES, INC
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Date Mailed: 09/06/2006

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)

Christopher Richard Doerr, Middletown, NJ;
David S. Levy, Freehold, NJ;

Power of Attorney:

Barry Freedman--26166
Stephen Gurey--27336
Bruce Schneider--27949
Martin Finston--31613
Christopher Malvone--34866
Matthew Hodulik--36164
Jeffrey Weinick--36304
Jimmy Goo--36528
Eugene Rosenthal--36658
Ozer Teitelbaum--36698

Domestic Priority data as claimed by applicant

This application is a CIP of 10/378,411 03/03/2003 PAT 6,922,507

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/657,862

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Integrateable optical interleaver and de-interleaver

Preliminary Class

385

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 27 2004

In re Application of	:	
Jon B. Telleen	:	
Serial No. 10/657,880	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO MAKE SPECIAL
For: REMOVABLY ATTACHABLE	:	
SECURITY DEVICES	:	

Applicant's petition, filed May 7, 2004, seeks to have this application made special because of the applicant's health, MPEP 708.02(III). 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(III) of the Manual of Patent Examining Procedures (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

James K. Poole
P.O. Box 925
Loveland, CO 80539

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 27 2004

In re Application of	:	
Jon B. Telleen	:	
Serial No. 10/657,880	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO MAKE SPECIAL
For: REMOVABLY ATTACHABLE	:	
SECURITY DEVICES	:	

Applicant's petition, filed May 7, 2004, seeks to have this application made special because of the applicant's health, MPEP 708.02(III). 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(III) of the Manual of Patent Examining Procedures (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

James K. Poole
P.O. Box 925
Loveland, CO 80539

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

JAMES K. POOLE, ESQ.
P.O. BOX 925
LOVELAND CO 80539

COPY MAILED

NOV 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon B. Telleen	:	
Application No. 10/657,880	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. JBT-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 3, 2006.

The request is **APPROVED**.

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

The request was signed by James K. Poole on behalf of all attorneys of record who are associated with customer No. 34491.

All attorneys/agents associated with the Customer Number 34491 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 Jon B. Telleen at the address indicated below.

In view of the present decision, James K. Poole has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b). 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

There is an outstanding Office action mailed August 4, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JON B. TELLEEN
413 SPRUCE STREET
BOULDER CO, 80302

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

COPY MAILED
SEP 0 5 2006
OFFICE OF PETITIONS

STREETS & STEELE
13831 NORTHWEST FREEWAY
SUITE 355
HOUSTON TX 77040

In re Application of	:	
Michael L. Dobson	:	
Application No. 10/657,885	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. DOBS-001	:	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 18, 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 Steven L. Christian on behalf of all attorneys of record who are associated with customer No. 24945.

All attorneys/agents associated with the Customer Number 24945 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time. All future correspondence will be directed to the sole named inventor Michael L. Dobson at the address indicated below.

There is an outstanding Office action mailed July 24, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Michael L. Dobson
19691 Lazy Lane
Porter, TX 77365

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/657,885
Filing Date	September 8, 2003
First Named Inventor	Michael L. Dobson
Art Unit	1734
Examiner Name	Cheryl N. Hawkins
Attorney Docket Number	DOBS-0001

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

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ the attorneys/agents associated with Customer Number 24945

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The attorney's client, Michael L. Dobson, has failed to pay several bills rendered by the attorney's firm for an unreasonable period of time. Mr. Dobson was given written notice on October 17, 2005, of the attorney's intent to withdraw for nonpayment of legal services. Mr. Dobson has failed to respond to this notice.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Michael L. Dobson				
Address	19691 Lazy Lane				
City	Porter	State	Texas	Zip	77365
Country	U.S.A.				
Telephone	713-870-9928; 281-354-4767	Email	mike@dobsonconstruction.biz		
Signature	Steven Christian				
Name	Steven L. Christian	Registration No.	38,108		
Date	November 16, 2005	Telephone No.	713-939-9444		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

RECEIVED
CENTRAL FAX CENTER
NOV 1 6 2005

JEFFREY L. STREETS
PATRICK K. STEELE
FRANK J. CAMPIGOTTO†
STEVEN L. CHRISTIAN

†Licensed by Ohio Supreme Court and U.S. Patent and Trademark Office
All others licensed by Texas Supreme Court and U.S. Patent and Trademark Office

STREETS & STEELE
Intellectual Property Attorneys

13831 Northwest Freeway, Suite 355
Houston, Texas 77040
(713) 939-9444
Fax (713) 939-9508

Patents, Trademarks, Copyrights, Licensing, Trade Dress, Trade Secrets, Unfair Competition, Technology Development, Computer and Internet Law

Date: November 16, 2005

To: Examiner Cheryl N. Hawkins Art Unit: 1734
USPTO

Facsimile: 571-273-8300

From: Streets & Steele
Debi Labay

Our Ref: DOBS/0001
Serial No: 10/657,885
Confirmation No: 2624
Deposit Mail Log: 1117

Pages: 3 (with cover)

Message:

CERTIFICATE OF TRANSMISSION
37 C.F.R. 1.8

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on the date below:

11/16/05 Debi Labay
Date Signature

Attached please find the following documents for the above referenced patent application:

1) **Transmittal Form; and**
2) **Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.**

CONFIDENTIALITY NOTE

The document accompanying this facsimile transmission contains information from the law firm of Streets & Steele which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

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	10/657,885
Filing Date	September 9, 2003
First Named Inventor	Michael L. Dobson
Art Unit	1734
Examiner Name	Cheryl N. Hawkins
Total Number of Pages in This Submission	2
Attorney Docket Number	DOBS/0001

RECEIVED
CENTRAL FAX CENTER
NOV 16 2005

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):
  Fax cover sheet

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	STREETS & STEELE		
Signature	Steven Christian		
Printed name	Steven Christian		
Date	November 16, 2005	Reg. No.	38,106

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	Debi Labay		
Typed or printed name	Debi Labay	Date	November 16, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. 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.

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

ARNOLD S. WEINTRAUB
THE WEINTRAUB GROUP
SUITE 240
32000 NORTHWESTERN HIGHWAY
FARMINGTON HILLS MI 48334

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of
John A. Lopes
Application No. 10/657,902
Filed: September 9, 2003
Attorney Docket No.: LOP-100-A-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1] filed March 18, 2005, to revive the above-identified application. Per the telephone conversation of June 1, 2005, between the undersigned and Arnold Weintraub, Attorney of Record, this petition is treated under 37 CFR 1.137(b)[2].

The petition is **GRANTED**.

This application became abandoned on December 9, 2004, for failure to pay the issue

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]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©)).

fee in response to the Notice of Allowance mailed September 8, 2004 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed January 31, 2005.

The issue fee ($700), petition fee($750) and publication fee($300), in accordance with 37 CFR 1.18, have been applied to the finance records for the above-identified application. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form (PTOL-85B) should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC33
JUL 01 2005
PATENT & TRADEMARK OFFICE

ARNOLD S. WEINTRAUB
THE WEINTRAUB GROUP
SUITE 240
32000 NORTHWESTERN HIGHWAY
FARMINGTON HILLS MI 48334

COPY MAILED

JUN 02 2005

OFFICE OF PETITIONS

In re Application of
John A. Lopes
Application No. 10/657,902
Filed: September 9, 2003
Attorney Docket No.: LOP-100-A-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1] filed March 18, 2005, to revive the above-identified application. Per the telephone conversation of June 1, 2005, between the undersigned and Arnold Weintraub, Attorney of Record, this petition is treated under 37 CFR 1.137(b)[2].

The petition is **GRANTED**.

This application became abandoned on December 9, 2004, for failure to pay the issue

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]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©)).

fee in response to the Notice of Allowance mailed September 8, 2004 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed January 31, 2005.

The issue fee ($700), petition fee($750) and publication fee($300), in accordance with 37 CFR 1.18, have been applied to the finance records for the above-identified application. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form (PTOL-85B) should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

COPY MAILED

JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/657,907	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. 9448.17205-CIP DIV 5	:	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, 2006.

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

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group LLP**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED
AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:
Joao, et al.	: DECISION GRANTING STATUS
Application No. 10/657,918	: UNDER 37 CFR 1.47(b)
Filed: September 9, 2003	:
Atty. Dkt. No.: 1122897-003	:
For: APPARATUS AND METHOD FOR	:
FACILITATING SHIPPING COMMERCE	:

This decision is in response to the petition under 37 CFR 1.47(b), filed July 1, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventors R. Joao, L. Mangan, and J. Notarianni have refused to execute the declaration for 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(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 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 returned to the Office of Initial Patent Examination ("OIPE") for further processing.

Telephone inquiries concerning the content of this decision may be directed to the undersigned at 703-305-0310 all other inquiries must be directed to OIPE.

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

RAYMOND A. JOAO
122 BELLEVUE PLACE
YONKERS, NY 10703

COPY MAILED
AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Joao, et al.	:	
Application No.: 10/657,918	:	LETTER
Filed: September 9, 2003	:	
Atty. Dkt. No.: 1122897-003	:	
For: APPARATUS AND METHOD FOR	:	
FACILITATING SHIPPING COMMERCE	:	

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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).

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

LEO J. MANGAN
229 KRAMER DRIVE
LINDENHURST, NY 11757

In re Application of Joao, et al. Application No.: 10/657,918 Filed: September 9, 2003 Atty. Dkt. No.: 1122897-003 For: APPARATUS AND METHOD FOR FACILITATING SHIPPING COMMERCE	: LETTER	COPY MAILED AUG 2 4 2004 OFFICE OF PETITIONS

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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).

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

JOHN A. NOTARIANNI
161 FARMERS AVENUE
LINDENHURST, NY 11757

COPY MAILED
AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Joao, et al.	:	
Application No.: 10/657,918	:	LETTER
Filed: September 9, 2003	:	
Atty. Dkt. No.: 1122897-003	:	
For: APPARATUS AND METHOD FOR	:	
FACILITATING SHIPPING COMMERCE	:	

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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).

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

MAILED
FROM DIRECTORS OFFICE

AUG 17 2005

TECHNOLOGY CENTER 3600

LERNER GREENERG, PA
P.O. Box 2480
Hollywood, FL 33022-2480

In re Application of
Gerhard Zuch
Application No. 10/657,927
Filed: September 9, 2003
For: GUIDE TUBE FOR AN INSTRUMENTATION LANCE EXTENDING INTO A PRESSURE VESSEL, REACTOR PRESSURE VESSEL, AND A METHOD FOR PREVENTING THE ACCUMULATION OF PARTICLES OUTSIDE THE PRESSURE VESSEL IN A GUIDE TUBE

DECISION ON THE PETITION FOR REJOINDER OF THE NON-ELECTED METHOD CLAIMS

This is a decision on applicant's petition for the rejoinder of non-elected method claims under 37 CFR 1.182, filed in the United States Patent and Trademark Office, on June 24, 2005. The petition is being handled as a petition under 37 CFR 1.181.

The petition is **DENIED**.

A thorough review of the file reveals that a restriction/election under MPEP § 806.05(e) - Process and Apparatus for its Practice - was mailed to applicant on June 11, 2004. Applicant on July 1, 2004 elected to prosecute claims 1-9 drawn to the apparatus. Applicant within his comments reserved the right to file a divisional application including the method claims 10-12 and/or request a rejoinder under MPER § 821.04. Since applicant provided no substantive arguments as to the validity of the restriction/election the applicant's election was considered to be *without* Traverse. A notice to that effect was provided in the examiner's non-final Office action of September 17, 2004.

A Notice of Allowability was mailed to applicant on March 22, 2005 with the non-elected *without* Traverse claims 10-12 canceled by examiners amendment. Applicant filed an amendment under 37 CFR 1.312 on March 30, 2005 amending the canceled claims 10-12 citing that the claims should be rejoined under MPEP § 806.05(h) -Product and Process of using. That amendment was disapproved on June 8, 2005 for the following reasons:
The original restriction/election requirement set forth by the examiner was under MPEP § 806.05(e). Rejoinder as previously requested by applicant under MPEP § 821.04 is not available under MPEP § 806.05(e). MPEP § 821.04 applies only to MPEP § 806.05(f) and (h). For rejoinder under MPEP § 806.05(e) applicant must include a linking claim (i.e., a means clause in the apparatus claim).

MPEP § 806.05(e) explicitly states "If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed rejoinder is required. See MPEP § 809.04.

Applicant's allowed apparatus claims contain no linking claim (i.e., a means clause). Rejoinder under MPEP § 821.04 is not proper.

Applicant's arguments for rejoinder are actually directed to the restriction requirement of June 11, 2004 as being improper. Applicant did not as previously pointed out by the examiner Traverse the restriction/election. Thus, the restriction/election is held to be Proper and the request for rejoinder to occur under MPEP § 821.04 is not applicable to MPEP § 806.05(e) - Process and Apparatus for its Practice.

The petition for rejoinder of the withdrawn non-elected method claims is **DENIED**.

Any questions or comments with respect to the decision should be forwarded to Director, Donald T. Hajec at the number listed below.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/kjd: 8/3/05

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

COPY MAILED

MAY 02 2007

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

In re Application of	:	
John M. Brown et al	:	
Application No. 10/657,946	:	DECISION ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 10972005-2	:	

This is a decision on the petition, filed January 11, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office Notice of December 1, 2003 and supplemented on November 5, 2004, which set a period for reply of TWO MONTHS from the mail date of the Notice.

Petitioner states that a timely reply to the Notice of December 1, 2003, was transmitted via facsimile on January 27, 2004 and resubmitted on January 29, 2009, which included an executed declaration.. Petitioner has submitted a copy of the previously transmitted correspondence, with a copy of the USPTO Auto-Reply confirmed receipt which bears a date of January 27, 2004, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received

in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice To File Missing Parts Of Nonprovisional Application is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on January 27, 2004.

This application is being referred to the Office of Initial Patent Examination for preexamination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
David E. Francischelli, et. al.	:	
Application No. 10/657,987	:	DECISION ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. P-10081.03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 20, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed on August 11, 2005. A Notice of Abandonment was mailed on February 27, 2006.

Petitioner states that a timely reply was on February 9, 2006, which included the following papers: an amendment and supplemental IDS transmittal, and amendment, petition for a three (3) month extension of time, a supplemental IDS, PTO form 1449, a return postcard receipt, authorization to charge $1,200 in fees to the deposit account, and authorization to charge any fees or credit to the deposit account. On March 29, 2006 and on November 20, 2006, petitioner submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 9, 2006, that renders the reply as timely filed.

A review of the record shows that the USPTO received the original response with $1,020 for a three months extension of time on February 13, 2006. It is also noted that the originally submitted response and extension of time contained a Certificate of Mailing under 37 CFR 1.8, dated February 9, 2006. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 11, 2005 is hereby withdrawn and the application is restored to pending status.

In view of the above, the $1,500 petition to revive fee submitted on November 20, 2006, is unnecessary and will be refunded to petitioner's deposit account.

This application is being referred to Technology Center AU 3739, for consideration of the response filed February 13, 2006, as being timely submitted with the three months extension of time.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Hofte et al	:	
Application No.10/658,007	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket Number: 9027	:	
Title of Invention: Device For Remotely	:	
Actuating A Mechanism	:	

This is a decision on the petition filed November 29, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed August 17, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 18, 2005. This decision precedes the mailing of a Notice of Abandonment.

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
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

JUL 20 2004

DCM

In re Application of Koper, et al. Serial Number: 10/658,011 Filed: September 9, 2003 For: REACTIVE NANOPARTICLES AS DESTRUCTIVE ADSORBENTS FOR BIOLOGICAL AND CHEMICAL CONTAMINATION	:	PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed September 9, 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

Gregory J. Skoch
HOVEY WILLIAMS LLP
Suite 400
2405 Grand Boulevard
Kansas City, MO 64108

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

MAILED
FROM DIRECTORS OFFICE

DEC 0 7 2004

TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Don Teague et al.
Application No. 10/658,014 :
Filed: September 08, 2003 :
For: METHOD AND SYSTEM TO PROCESS: A BILLING FAILURE IN A NETWORK-BASED COMMERCE FACILITY

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 08, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

As to condition (A), the attorneys listed as being withdrawn in Customer No. 08791 do not match the appointed. Therefore, some attorneys originally appointed would still be of record if the request were approved. It does not appear that is the intent of the request. If only certain attorneys are withdrawing, then it must be so stated.

As to condition (C), it is not clear how the discontinuation of the attorney client relationship occurred. (The attorneys may not discontinue on their own accord).

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

KJD/slb: 11/29/04

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 29 2005

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

MAILED
MAR 29 2005
OFFICE OF THE DIRECTOR
TC 3600

Mark A. Ussai
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, WI 53202-4108

In re Application of:	:	**DECISION ON PETITION**
Stefan HUEDEPOHL	:	**UNDER 37 CFR 1.181 and/or**
Application No. 10/658,038	:	**37 CFR 1.144 and/or**
Filed: September 9, 2003	:	**MPEP 1306.01**

This is in response to the petition filed December 20, 2004 to invoke Supervisory Authority under 37 CFR 1.181 and/or under 37 CFR 1.144 to withdraw Restriction Requirement and/or under MPEP 1306.01 to defer issuance of the present application until all matters discussed herein are resolved.

Applicant petitions under 37 CFR 1.181 to invoke Supervisory Authority in order to correct several irregularities in the present application before issuance. Specifically, requests consideration of an initialed copy of an Information Disclosure Statement (Form PTO-1449) filed August 31, 2004, an interview summary concerning substantive discussions between the undersigned and the Examiner during October 2004 and clarification of the basis for canceling claims 21-25.

Applicant further petitions under 37 CFR 1.144 to request reconsideration and withdrawal of the Restriction Requirement mailed August 2, 2004.

Finally, Applicant petitions to defer issuance until all matters discussed therein above are satisfactorily resolved.

With regards to the consideration of the Information Disclosure Statement filed August 31, 2004, the record reveals that since the filing of the Petitions, the Examiner considered and initialed the Form PTO-1449 in a Supplemental Notice of Allowability mailed January 18, 2005. Therefore, this issue is moot.

With regard to the remaining issues, a review of the record reveals that a restriction requirement was mailed August 2, 2004 that required Applicant to select one of the inventions represented by claims 1-20 and claims 21-25. On August 31, 2004, Applicant filed a Response to the restriction requirement, in which claims 1-20 were provisionally elected with traverse. A Notice of Allowance and Examiner's Amendment was mailed on October 18, 2004. The Examiner's Amendment identified an authorization by Applicant's representative to make minor changes to the claims as well as an authorization to cancel non-elected claims 21-25 in order to put the case in condition for allowance. A separate Interview Summary was not found in the record.

A1

A further review of the record reveals that the Restriction Requirement identified two inventions – Group I (claims 1-20) drawn to a foldable top classified in Class 296, Subclass 107.07 and Group II (claims 21-25) drawn to an apparatus and method classified in Class 296, Subclass 107.12. Claims 1-20 are directed towards a foldable top suitable for a convertible vehicle comprising a rear window, a tensioning bow and at least one connector disposed on the supporting portion between the rear window and the tensioning bow, the connector constructed to releasably engage the lower edge of the rear window with the tensioning bow. Claims 21-23 are directed towards an apparatus comprising a first means for moving a foldable top between a roof closed and open position and a second means for automatically unlocking a lower edge of a rear window supported within the foldable top from a tensioning bow disposed within the foldable top.

Applicant argues the primary basis for requiring restriction was the alleged separate classification of the inventions. Applicant points out that the Examiner's search notes dated October 18, 2004 reveal the Examiner searched both subclasses 107.07 and 107.12 of Class 296. Applicant argues that since Examiner searched both subclasses identified in Group I and Group II, the primary reason for restriction has been made moot. Applicant concludes that the Examiner has not sufficiently shown why it would be a serious burden to examine all claims as per MPEP 803.

A review of the Office action indicates that the examiner has not sufficiently shown the distinctness between the specifics of the subcombination and the related limitations of the combination claims. The inventions or groups identified all recite a different combination of elements associated with foldable tops or convertible roof systems having tensioning bows and rear windows.

In view of the insufficient showing of distinctness the restriction requirement as it applies to Groups I-II (claims 1-25) is hereby vacated.

The petition is <u>GRANTED to the extent that the restriction requirement is vacated and claims 21-25 will be reinstated</u>.

The application will be withdrawn from issue in order to permit the examiner to prepare a non-final action on the merits for claims 1-25 consistent with this decision.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (703) 308-3102.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

RO:dgd:2/15/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FLOOR
BOSTON, MA 02110

MAIL

MAR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Mark Smith, et al. :
Application No. 10/658053 :
Filed: September 9, 2003 :
For: METHOD AND APPARATUS FOR SYNCHRONIZED TRANSPORT OF DATA THROUGH AN ASYNCHRONOUS MEDIUM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record received October 21, 2004.

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

A revocation of attorney was filed on November 9, 2004 and was accepted by the Office on February 8, 2005.

For the reason stated above the request is **DISMISSED AS MOOT.**

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Kudirka & Jobse, LLP
One State Street
Suite 800
Boston, MA 02109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/21/05

TO SPE OF : ART UNIT **2189**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/658058 6979993

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:

The claim numbers and dependencies are correct as published. Applicant incorrectly assumed that old claims 38-40 were renumbered as claims 10-12. They were renumbered as claims 7-9 and old claims 28-30 were renumbered as claims 10-12.

Reginald G. Bragg — **SPE**

2189 — **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

JUN 16 2004

MAILED

JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

ROBERT HICKLING
8306 HUNTINGTON ROAD
HUNTINGTON WOODS, MI
48070

In re application of	:	**DECISION ON PETITION**
Robert Hickling	:	**TO MAKE SPECIAL**
Application No. 10/658,076	:	**(APPLICANT'S AGE)**
Filed: September 09, 2003	:	

For: METHOD AND APPARATUS FOR ACOUSTIC DETECTION OF BURIED OBJECTS

This is a decision on the petition submitted on September 09, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Hickling indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/slb: 6/15/04

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

In re Application of
Shiro Majima et al.
Application No. 10/658,086
Filed: September 9, 2003
Attorney Docket No. 09868/000M893-US0

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on September 9, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 9, 2003, with a declaration naming Shiro Majima and Keiri Yoshioka as joint inventors and signed by inventor Shiro Majima only. The present petition was also filed on September 9, 2003 requesting status under 37 CFR 1.47 claiming that joint inventor Yoshioka cannot be located or refuses to execute the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

A statement made by the attorney of record indicates that the declaration and assignment were sent by the assignee to Mr. Yoshioka and that no reply was received and further that the assignee phoned Mr. Yoshioka on two occasions in August 2003 and that no answer was received. The evidence presented is not clear as to whether the phone calls made to Mr. Yoshioka were made to a working phone number or just that Mr. Yoshioka has not responded to the attempts made by the assignee to have the declaration executed. While the evidence presented is not sufficient to show that Mr. Yoshioka had the benefit of seeing the application, it is stronger than the fact that Mr. Yoshioka cannot be located, since no proof has been presented to that end.

Petitioners may show proof that a copy of the application was sent or given to the non-

signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of
Shiro Majima et al.
Application No. 10/658,086
Filed: September 9, 2003
Attorney Docket No. 09868/000M893-US0

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on June 23, 2004, with a request for a three month extension of time to file.

The petition is **GRANTED**.

The above-identified application was filed on September 9, 2003, with a declaration naming Shiro Majima and Keiri Yoshioka as joint inventors and signed by inventor Shiro Majima only. A petition was filed on September 9, 2003 with the application requesting status under 37 CFR 1.47 claiming that joint inventor Yoshioka could not be located or refused to execute the declaration. The petition was dismissed in a decision mailed January 23, 2004 because the petition was not substantiated with proof that the complete application had been forwarded to non-signing inventor Yoshioka.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

In response to the decision dismissing the petition filed September 9, 2003, a statement made by the attorney of record indicates that a complete application packet was sent by the assignee to Mr. Yoshioka and that no reply was received. Additionally, a statement provided by Tsuyoshi Sadamatsu, an officer on behalf of KONAMI, the assignee, indicates that at least on two occasions mailings including the complete application were mailed to Mr. Yoshioka, that at least one of the mailings was delivered and not returned and that several telephone calls were made to Mr. Yoshioka, some personally answered by Mr. Yoshioka and others for which there was no answer.

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

This application will be forwarded to Technology Center 3713 for examination in due process.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

COPY MAILED

MAY 1 4 2007

OFFICE OF PETITIONS

In re Application of	:	
REILEY, Mark A.	:	
Application No. 10/658,089	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. 29914-701.409	:	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, 2006.

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

A review of the file record indicates that the power of attorney to WILSON SONSINI GOODRICH & ROSATI has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAY LAW GROUP**
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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 11-04

Philip K. Watson
14 Dallas Drive
Houma LA 70360

COPY MAILED

NOV 24 2004

OFFICE OF PETITIONS

In re Application of
Robichaux et al.
Application No. 10/658,092
Filed: 9 September, 2003
For: TOP DRIVE SWIVEL APPARATUS AND METHOD

Dear Mr. Watson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

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 11-04

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

COPY MAILED

NOV 24 2004

OFFICE OF PETITIONS

In re Application of	:
Robichaux, Robichaux, Jacobs,	:
Clement, Pellegrin, Caillouet, and	: DECISION ACCORDING STATUS
Watson	: UNDER 37 CFR 1.47(a)
Application No. 10/658,092	:
Filed: 9 September, 2003	:
Atty Docket No. P03181US (98703/1P)	:

This is in response to the petition filed under 37 CFR 1.47(a) on 7 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Philip K. Watson, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established that a copy of the above-identified application was sent to the non-signing inventor. The non-signing inventor, however, has failed to sign and return the declaration naming him as a joint inventor along with Kip M. Robichaux, Terry P. Robichaux, Steve Jacobs, Bryan Clement, Murry Pellegrin, and Kenneth G. Caillouet.

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

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

The application is being referred to Technology Center 3600 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

APR 26 2004

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

In re application of John Daly Serial No. : 10/658,093 Filed : September 9, 2003 Attorney Docket No.: DAVI125.001CP1	: DECISION ON PETITION

This is in response to applicant's petition, filed March 15, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) because the claimed invention is being infringed.

Applicant has satisfied the requirements set forth in M.P.E.P. 708.02, II.

The petition is **GRANTED.**

The application will be forwarded to the examiner for action on the merits in accordance with this decision.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

Bruce Campell

Bruce Campell
Supervisory Patent Examiner / Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of
Downes, et al.
Application No.: 10/658,115
Filed: September 8, 2003
Attorney Docket No.: SALK3130-1(088802-9702)
For: NON-STEROIDAL FARNESOID X RECEPTOR MODULATORS AND METHODS FOR THE USE THEREFOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 25, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 8, 2003 without an executed declaration. On March 23, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application an executed oath/declaration and a surcharge for its late filing. In response, on June 28, 2004 (certificate of mailing date June 23, 2004), petitioners filed, *inter alia*, a declaration executed by 2 of 5 joint inventors, the surcharge, and a request for a one month extension of time and required fee. On July 16, 2004, the Office mailed a Notice of Incomplete Reply (Nonprovisional), that stated inventors Hughes, Nicolau, and Roecker had not signed the declaration and that the period to timely reply remained as set forth in the March 23, 2004 Notice.

In response, petitioners filed the instant Rule 47 petition with the required $130 fee and a request for a five month extension of time with $985, which is the balance due taking into consideration the one month extension of time purchased on June 28, 2004 (certificate of mailing date June 23, 2004). The petition is accompanied by a declaration by Attorney Sheila R. Kirschenbaum, who explains the non-signing inventors' attorney was mailed a copy of the application papers, but that

the non-signing inventors' attorney stated that his clients would not sign the enclosed declaration in a letter dated April 6, 2004.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventors have refused to sign the declaration.

Attorney Sheila R. Kirschenbaum explains that a copy of the application as filed and the formal papers for signature were provided to Attorney Thomas Fitting, the legal representative for non-signing inventors Hughes, Nicolau, and Roecker. Attorney Kirschenbaum states that Attorney Fitting wrote a letter dated April 6, 2004 that acknowledged receipt of the application papers and stated that the inventors would not execute the declaration for patent application.

As stated in MPEP 409.03(d), "When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts."

Petitioners are requested to submit a copy of the April 6, 2004 letter in a reconsideration petition.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Downes, et al. :
Application No.: 10/658,115 :
Filed: September 8, 2003 :
Attorney Docket No.: SALK3130-1(088802-9702) :
For: NON-STEROIDAL FARNESOID X RECEPTOR MODULATORS AND METHODS FOR THE USE THEREFOR

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 28, 2005.

The petition is granted.

Petitioners have shown that non-signing inventors Hughes, Nicolaou, and Roecker have refused to join in the filing of the above-identified application. Specifically, the declaration by Attorney Sheila R. Kirschenbaum and accompanying exhibits to the declaration establish that the non-signing inventors' attorney was succesfully mailed a copy of the application papers, but in a letter dated April 6, 2004 the non-signing inventors' attorney stated that his clients would not sign the enclosed 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/declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
P O BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

NOV 21 2006

OFFICE OF PETITIONS

In re Application of	:
Michael R. Downes et al	:
Application No. 10/658,115	: DECISION ON PETITION
Filed: September 8, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. SALK3130-1	:

This is in response to the "Express Abandonment under 37 C.F.R. 1.138," filed September 19, 2006, which is more appropriately a petition under 37 CFR 1.313(c)(3) to withdraw this application from issue after payment of the issue fee and has been so treated.[1]

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\658115.wpd

---

[1] It is noted that the Technology Center mailed out a Notice of Abandonment on October 24, 2006 acknowledging the letter of express abandonment. However, after payment of the issue fee, a petition to withdraw from issue is the appropriate avenue for expressly abandoning an application after payment of the issue fee. *See* MPEP Section 711.01, which states: "If the issue fee has been paid, the letter of express abandonment should be directed to the Office of Petitions * * * and be accompanied by a petition to withdraw an application from issue under 37 CFR 1.313(c)."

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

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of

WILLIS, John P.
Application No. 10/658,116
Filed: September 08, 2003
Attorney Docket No. **BVTP-P02-004**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 02, 2008.

The request is **APPROVED**.

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

The request was signed by Yu Lu 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 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.

There is an outstanding Office action mailed February 21, 2008 that requires a reply from the 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: **JOHN P. WILLIS, PH.D**
24 WHITNEY ROAD
SHIRLEY, MA 01464

cc: **MR. MARK LEWIS, SENIOR DIRECTOR**
PROGRAM MANAGEMENT
VALERITAS LLC
800 BOSTON TURNPIKE
SHREWSBURY, MASSACHUSETTS 01545

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

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

COPY MAILED

MAY 24 2007

OFFICE OF PETITIONS

In re Application of

Daniel J. Vavrick
Application No. 10/658,128
Filed: September 9, 2003
Attorney Docket No. 84208

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A non-final rejection was mailed on April 27, 2007. Failure to timely respond will result in the abandonment of this application.

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

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

Foley & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

MAILED
NOV 0 5 2004
Technology Center 2100

In re Application of:
John TANDLER, et al.
Application No. 10/658,129
Filed: September 9, 2003
For: LOW EARTH ORBIT COMMUNICATION SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 5, 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.

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

cc: Mr. John Tandler
Chief Executive Officer
SkyMate, Inc.
P.O. Box 710357
Oak Hill, VA 20171

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

JAQUEZ & ASSOCIATES
Suite 1000
6265 Greenwich Drive
San Diego, CA 92122-5916

COPY MAILED

JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Burgener, et al.	:	
Application No. 10/658,154	:	DECISION ON PETITION UNDER
Application Filing Date: September 8, 2003	:	37 CFR 1.137(f)
Attorney Docket No. PER-005-PAP		

This is a decision on the petition under 37 CFR 1.137(f), filed January 8, 2007, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 2800, GAU 2816 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

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

JAQUEZ & ASSOCIATES
Suite 1000
6265 Greenwich Drive
San Diego, CA 92122-5916

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Burgener, et al.	:	
Application No. 10/658,154	:	DECISION GRANTING PETITION
Filed: September 8, 2003	:	
Attorney Docket No. PER-005-PAP	:	

This is a decision on the petition filed January 8, 2007, titled "Petition under 37 CFR 1.182 to Expedite Previously Filed Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of Foreign or International Filing 37 CFR 1.137(f)."

The petition is **granted**.

The record reflects that instant petition to expedite was filed on January 8, 2007, and the petition under 37 CFR 1.137(f) was filed on January 9, 2007. The petition under 37 CFR 1.137(f) was granted by a decision mailed January 31, 2007.

The application is directed to Technology Center 2800, GAU 2816 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

PET. DEC.

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

APR 16 2004

VP
PAPER NO. ___

In re Application of
David L. Neary
Serial Number: 10/658,157
Filed: September 9, 2003
For: PURE VACUUM SWING ADSORPTION SYSTEM AND APPARATUS

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed November 14, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

David L. Neary
711 Manchester Trail Drive
Spring TX 77373

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _

DATE : 5-17-05

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6878186

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

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

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor shou the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branc

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 printed claims are the same claims as presented in applicant's amendment of Nov. 23, 2004. The order of the claims was changed to place the method of use claims before any apparatus claims, due to how the class is classified. The only correctable error appears to be in line 8 of claim 4, where "18ra" should be "1ra".

RHS 05/24/05

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
Art U

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trad

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

NOV 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John L. Adair
GRAY, CARY, WARE & FREIDENRICH LLP
2000 University Avenue
E. Palo Alto CA 94303-2248

In re Application of:
Goeffrey B. HOESE et al.
Application No. 10/658,163
Filed: September 9, 2003
For: STORAGE ROUTER AND METHOD FOR PROVIDING VIRTUAL LOCAL STORAGE

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed November 21, 2003, under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. § 1.102(d), and M.P.E.P. § 708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. § 1.17(h) and a statement under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a ***rigid comparison*** of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are **unquestionably infringed**: and (C) 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 prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

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 expedited examination.

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
www.uspto.gov

Barnes and Thornburg
11 South Meridian
Indianapolis, IN 46204

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Ching-Jer Chang, et al. :
Application No. 10/658,175 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket No. 3220-73417 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition 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.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on September 9, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications 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) and 1.78(a)(6) 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) and 1.78(a)(5)(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) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1330 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 Marianne Jenkins at (703) 306-3475. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Examiner of Technology Center AU 3175 for appropriate action on the amendment filed June 7, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Adachi et al.	:	FOR RECONSIDERATION
Application No. 10/658,190	:	OF
Filed: September 10, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 9683/259	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed November 27, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred fourteen (714) days to seven hundred sixty (760) 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 **seven hundred sixty (760)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 28, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 714 days. On November 27, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 50 days associated with the filing of a response after non-final Office action received July 2, 2007. Applicants point out that the original Office action was re-mailed and the period for response

[1] PALM records indicate that the Issue Payment was also filed on November 27, 2007.

restarted on March 28, 2007. Further, although their response was filed outside of three months of the mailing date of the re-mailed Office action, the period of reduction under 37 CFR 1.704(b) is 4 days, not 50 days.

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

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received outside of three months of the Letter Restarting Period for Response (the re-mailed Office action) by 4 days, the applicant delay within the meaning of §1.704(b) has been corrected to 4 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 760 days.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Thursday
Date: 1/31/2008

PALM INTRANET

Time: 11:30:30

PTA Calculations for Application: 10/658190			
Application Filing Date:	09/10/2003	PTO Delay (PTO):	764
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	50
Post-Issue Petitions:	0	Total PTA (days):	760
PTO Delay Adjustment:	46		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	01/31/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	50		
53	01/31/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
46	08/28/2007	MAIL NOTICE OF ALLOWANCE			
45	08/28/2007	MAIL EXAMINER'S AMENDMENT			
44	08/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	08/21/2007	DOCUMENT VERIFICATION			
42	08/21/2007	ISSUE REVISION COMPLETED			
41	08/17/2007	EXAMINER'S AMENDMENT COMMUNICATION			
40	08/17/2007	NOTICE OF ALLOWABILITY			
39	07/11/2007	DATE FORWARDED TO EXAMINER			
38	07/02/2007	RESPONSE AFTER NON-FINAL ACTION		50	34
37	03/28/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
36	03/26/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
35	03/20/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	02/13/2007	MAIL NON-FINAL REJECTION			
33	02/09/2007	NON-FINAL REJECTION			
32	01/26/2007	DATE FORWARDED TO EXAMINER			
31	01/22/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	01/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	12/14/2006	MAIL RESTRICTION REQUIREMENT	764		-1
28	12/11/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
27	12/10/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

26	12/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	03/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	10/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	06/12/2006	CORRESPONDENCE ADDRESS CHANGE			
20	06/12/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	04/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
17.7	10/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/20/2005	REFERENCE CAPTURE ON IDS			
15.7	09/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	09/10/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11.7	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10.7	12/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9.7	12/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	12/12/2003	APPLICATION RETURN FROM OIPE			
7	12/12/2003	APPLICATION RETURN TO OIPE			

6	12/11/2003	APPLICATION DISPATCHED FROM OIPE			
5	12/12/2003	APPLICATION IS NOW COMPLETE			
4	11/23/2003	CASE CLASSIFIED BY OIPE			
3	11/23/2003	CLEARED BY OIPE CSR			
2	10/12/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/10/2003	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

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

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

SEP 25 2008

OFFICE OF PETITIONS

In re Patent No. 7,346,216	:	DECISION ON REQUEST
Adachi et al.	:	FOR RECONSIDERATION
Issue Date: March 18, 2008	:	OF
Application No. 10/658,190	:	PATENT TERM ADJUSTMENT
Filed: September 10, 2003	:	
Atty Docket No. 9683/259	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed May 9, 2008. Patentees request that the patent term adjustment indicated on the patent be corrected from seven hundred sixty (760) days to one thousand two hundred twenty (1220) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

OPINION

On March 18, 2008, the above-identified application matured into U.S. Patent No. 7,346,216, with a revised Patent Term Adjustment of 760 days. The instant request for reconsideration filed May 9, 2008 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert three bases for correction of the patent term adjustment: 1) 257 days for Office delay between the time of the mailing of the Restriction Requirement and the time of the mailing of the Notice of Allowance, 2) 203 days for Office delay between the time of the

mailing of the Notice of Allowance and the time the patent issued, and 3) 460 days for the Office delay beyond the three year date.

On First Basis

With respect to the first basis, this contention is dismissed as untimely. As stated in 37 CFR 1.705(d),

> any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The initial determination of patent term adjustment mailed with the notice of allowance includes calculation of all periods of adjustment and reduction for Office and applicant delay up to and including with the mailing of the notice of allowance. Thus, it includes any Office delay in mailing the notice of allowance. As this contention challenges the patent term adjustment indicated on the notice of allowance, it should have been raised on application under 37 CFR 1.705(b) filed prior to payment of the issue fee.

In this case, an application for patent term adjustment under 37 CFR 1.705(b) was timely filed on November 27, 2007, requesting that a period of reduction of 50 days for applicant delay be corrected to 4 days. It did not raise any other issue. Further, after an evaluation of all delays in this application, by decision mailed February 5, 2008, the application for patent term adjustment was granted and the period of reduction corrected from 50 days to 4 days (for a total determination of patent term adjustment at the time of the mailing of the notice of allowance of 760 days). The corrected patent term adjustment did not include any further period of adjustment for Office delay in mailing the notice of allowance. No request for reconsideration of this decision on application for patent term adjustment was filed.

Regardless, it is appropriate to advise patentee that there is no basis in the rules for according Office delay for the period of 257 days from the mailing of the Restriction Requirement to the mailing of the Notice of Allowance.

On Second Basis

Likewise, with respect to the second basis for correction of the patent term adjustment, patentee is advised that there is no basis in the rules for according Office delay for the period of 203 days from the mailing of the notice of allowance to the time the patent issued. 37 CFR 1.702 sets forth the grounds for entering periods of adjustment due to examination delay (Office delay). Patentee does not indicate proper grounds for entry of 203 days for Office delay. After the mailing of the notice of allowance, applicant delay is at issue. In response to the notice of allowance, applicant not the Office next takes action. Applicant must pay the issue fee and satisfying all other outstanding requirements before the Office can issue the patent. Thus, after applicant takes action, Office delay is at issue. Specifically, 37 CFR 1.702(a)(4) provides for entry of a period of adjustment for Office failure to:

> Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

In this case, the issue fee and all outstanding requirements were satisfied as of November 27, 2007. As the patent issued within four months, on March 18, 2008, there was no Office delay within the meaning of 37 CFR 1.702(a)(4).

On Third Basis

Patentee asserts that the delay beyond the three-year date is properly accounted for as 460 days. It is not clear how patentee determined a period of adjustment of 460 days (or thus, argues that the patent term adjustment should be increased by 460 days from 760 days to 1,220 days).

With respect to §1.703(b), it is noted that the patent issued three years and 555 days after its filing date. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the 764 days accorded pursuant to 1.702(a)(1) for Office delay during the pendency of the application overlapped with the 555 days pursuant to 1.703(b). Thus, no additional periods of adjustment was entered for Office delay in issuing the patent.

Conclusion

In view thereof, the patent term adjustment of 760 days indicated in the patent is correct.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required. Patentee submitted a payment of $400; the overpayment of $200 is being credited to Deposit Account No. 23-1925, as authorized.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

COPY MAILED

APR 21 2004

OFFICE OF PETITIONS

In re Application of
Dhawan
Application No. 10/658,191
Filed: September 10, 2003
Attorney Docket No. 57357-069
For: MULTIPHASE MOTOR WINDING TOPOLOGY AND CONTROL

DECISION GRANTING PETITION

This is a decision on the petition filed February 11, 2004 requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed December 12, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on September 10, 2003. On December 12, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figures 3, 5, 6 and 8 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figures 3, 5, 6 and 8 be accorded a filing date of September 10, 2003 on the basis that 8 pages of formal drawing figures, including drawing figures 3, 5, 6 and 8, were received in the Patent and Trademark Office (PTO) on September 10, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing September 10, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 8 pages of formal drawings. A review of the application file reveals that only 4 pages of formal drawing figures are present.

The return postcard constitutes *prima facie* evidence that 8 pages of formal drawing figures, including drawing figures 3, 5, 6 and 8, were filed on September 10, 2003. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 10, 2003**, using the copy of figures 3, 5, 6 and 8 submitted with the instant petition. Office records will be corrected to show that 8 pages of formal drawing figures were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter L. Kendall
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DE 20036

Mail Date: 04/21/2010

Applicant	: Won-Kyung Seong	: DECISION ON REQUEST FOR
Patent Number	: 7623186	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stacey J. Longanecker
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

Mail Date: 04/21/2010

Applicant	: Barry H. Ginsberg	: DECISION ON REQUEST FOR
Patent Number	: 7570980	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1591** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,216	09/08/2003	2836	2482	02453.0022.NPUS00	19	84	8

CONFIRMATION NO. 2715

UPDATED FILING RECEIPT

OC000000011912558

27240
HOWREY SIMON ARNOLD & WHITE, LLP - OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

Date Mailed: 02/17/2004

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

Applicant(s)

Erik R. Swenson, San Jose, CA;
Stephen R. Haddock, La Honda, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/01/2003

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

System for and method of communicating control information between entities interconnected by backplane connections

Preliminary Class

307

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

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

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

Mail Date: 04/21/2010

Applicant	: Erik R. Swenson	: DECISION ON REQUEST FOR
Patent Number	: 7580409	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1116** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

SEP 02 2009

OFFICE OF PETITIONS

In re Patent No. 7,244,825	
Roser	DECISION ON PETITION under 37 CFR 1.182 for REQUEST FOR PTA
Issue Date: July 17, 2007	
Application No. 10/658,219	
Filed: September 8, 2003	
Attorney Docket No. 559662000102	

This is a decision on the 1) Petition under 37 C.F.R. 1.182, "REQUEST FOR RESTORATION OF PATENT TERM ADJUSTMENT" requesting that the Office reconsider the patent term adjustment from 289 days to 406 days.

The petition filed under 37 CFR 1.705(d) is dismissed as **untimely filed**. The petition is further dismissed under 37 CFR 1.182 **because 37 CFR 1.705(d) expressly provides a procedure for requesting reconsideration of patent term adjustment.**

BACKGROUND

On July 17, 2007, the above-identified application matured into U.S. Patent No. 7,244,825, with a revised patent term adjustment of 289 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. On May 23, 2008, patentee

petitions under 37 C.F.R. § 1.182 to consider the enclosed Request for "REQUEST FOR RESTORATION OF PATENT TERM ADJUSTMENT".

FACTS

The above-referenced patent issued on July 17, 2007. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until May 23, 2008, approximately 10 months after the issuance of the patent.

Patentee requests that the Office restore the patent term adjustment from 289 days to 406 days. Patentee asserts that the Office forms under 35 USC 1.54(b) for a terminal disclaimer did not provide a check for an exception, as a result petitioner resubmitted the terminal disclaimer with the issue fee. Patentee asserts that the Office then reduced the patent term by 117 days to 289 days.

DISCUSSION

1.704 (c)8) Reduction of period of adjustment of patent term provides:

8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

37 CFR 1.82 provides:

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in

37 CFR 1.705(d) provides:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised

> patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*Emphasis* added).

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application.

37 CFR 1.705(d) is the regulation for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

Moreover, since the regulations provide a mechanism for requesting reconsideration of patent term adjustment, applicant cannot establish grounds for a grantable petition under 37 CFR 1.182.

Assuming *arguendo* the request had been timely filed, the outcome of the decision would be the same. Patentee asserts that the reduction in patent term adjustment was the result of filing a substitute terminal disclaimer with the submission of the issue fee. However, it is noted, that the reduction of the patent term adjustment after the notice of allowance was reduced for the filing of the supplemental Information Disclosure Statement on March 13, 2008.

In the case at hand, the supplemental information disclosure statement was filed with the issue fee payment and is considered a reduction against patent term adjustment under 37 CFR 1.704(c)(10).

CONCLUSION

The request for reconsideration of the patent term adjustment under 37 CFR 1.182 and 1.705(d) filed more than two months after the issue date of the patent is **DISMISSED** as untimely filed as well as being **DISMISSED** as being specifically provided for in the rules.

Telephone inquiries specific to this matter should be directed to Kery Fries, at (571) 272-7757.

Kery A. Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 15 2010

OFFICE OF PETITIONS

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

In re Patent of Cohen et al.	:	DECISION ON REQUEST
Patent No. 7,588,545	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/658,261	:	AND NOTICE OF INTENT TO
Filing Date: September 10, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 06530.0307	:	CORRECTION

This is a decision on the petition filed November 13, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by one thousand two hundred thirty-two (1232) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand two hundred thirty-two (1232) days is **GRANTED to the extent indicated herein**.

Patentees contend the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 572 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Although Patentees recognized the need to exclude a time period due to the RCE, Patentees failed to exclude the actual date the RCE was filed from the period of B Delay. Once the date the RCE was filed is removed from the period of B Delay, the period of B Delay is 571 days, not 572 days.

Patentees contend, and the Office agrees, the period of overlap between delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay is 184 days.

Patentees contend the total period of patent term adjustment is 1,232 days. However, the sum of 863 days of A Delay and 571 days of B Delay reduced by 184 days of overlap and 9 days of Applicant Delay is 1,241 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,**

whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand two hundred forty-one (1,241)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,588,545 B2
ISSUE DATE	:	September 15, 2009
INVENTOR(S)	:	Cohen et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 854 days.

Delete the phrase "by 854 days" and insert - by 1241 days--

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

THOMPSON LAMBERT
SUITE 703D, CRYSTAL PARK TWO
2121 CRYSTAL DRIVE
ARLINGTON VA 22202

COPY MAILED

MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Varney :
Application No. 10/658,277 : ON PETITION
Filed: September 10, 2003 :
Title: Heat Exchanger Optimization Process :
and Apparatus

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 30, 2005. In the alternative, petitioner has requested that the petition be treated as a petition to revive under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition to revive under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on June 3, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on September 3, 2005. This decision precedes the mailing of a Notice of Abandonment.

In the present petition, petitioner contends the a Notice of Appeal, a petition for one month extension of time and a credit card payment form were submitted on October 3, 2005. Petitioner states the reply was faxed to the number of the Board of Patent Appeals and Interferences at (571) 273-0053. To support petitioner's contention, petitioner has provided a copy of the reply which contains a certificate of transmission with a date of October 3, 2005. Petitioner has also provided a copy of the sending unit's transmission report.

The response submitted October 3, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely. Petitioner however is cautioned that all correspondence (with a few exceptions) transmitted by facsimile should be directed to the central facsimile number of (571) 273-8300. MPEP 502.01.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision. See 37 CFR §§ 41.31 and 41.37.

The application is being forwarded to the Art Unit 3744 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of
Eric S. Mattis et al.
Application No. 10/658,300
Filed: September 8, 2003
Attorney Docket No: 030296

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, 2004, to revive the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned February 4, 2004 for failure to file a timely response to the Notice to File Missing Parts mailed December 3, 2003. Accordingly, a Notice of Abandonment was mailed November 4, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b) [1] however, the petition lacks item (1) above.

---

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

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

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

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

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

The Notice mailed December 3, 2003 required the filing of an oath or declaration and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. With the instant petition, an executed oath or declaration was submitted but not the replacement drawings.

This application will remain in an abandoned status until such time as the requirements set out in the Notice to File Missing Parts have been complied with.

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

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

By FAX: (703) 872-9306

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

COPY MAILED

MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of
Eric S. Mattis et al.
Application No. 10/658,300
Filed: September 8, 2003
Attorney Docket No: 030296

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned February 4, 2004 for failure to file a timely response to the Notice to File Missing Parts mailed December 3, 2003. Accordingly, a Notice of Abandonment was mailed November 4, 2004. A petition to revive was filed December 13, 2004 and dismissed in a decision mailed December 23, 2004 because it lacked the required reply.

Comes now the petitioner with the instant renewed petition and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121, and all other requirements having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

COPY MAILED
DEC 21 2006
OFFICE OF PETITIONS

In re Application of :
Ishikawa et al. :
Application No. 10/658,313 :
Filing or 371(c) Date: 09/09/2003 :
Patent No.: 7,050,124 :
Issue Date: 05/23/2006 :
Attorney Docket No. :
8002A-67 :

This is a decision on the "Request for Certificate of Correction of patent", filed August 10, 2006, requesting a change in the name of the assignee after payment of the issue fee. The petition is properly treated under 37 CFR 3.81(b) [1].The delay in treating this petition is regretted.

The Petition is **granted**.

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

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

Derek L. Woods
Attorney
Office of Petitions

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

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

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

COPY MAILED

AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Phillip Katz	:	
Application No.: 10/658,316	:	
Filed: September 9, 2003	:	UNDER 37 CFR 1.137(b)
For: DIAMOND CUT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed November 10, 2005, which set a shortened statutory period for reply of three (3) months. No reply was filed and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on February 11, 2006.

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

The application file is being referred to Technology Center AU 3677.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Pawlush :
Application No. 10/658,317 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket No. P992792-04UT :
For: FASTENING SYSTEM FOR CHAIR

This is a decision on the petition, filed June 8, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply an extendable one () month period from the mailing of the October 11, 2005 Notice of Non-Compliant Amendment. No response being received and no extensions of time being obtained, this application became abandoned on November 12, 2005. A Notice of Abandonment was mailed on May 18, 2006.

Applicant has submitted an amendment in reply to the Notice of Non-Compliant Amendment (and the underlying non-final Office action, mailed May 4, 2005), an acceptable statement of the unintentional nature of the delay, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3636 for consideration of the amendment filed on June 8, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

COPY MAILED

NOV 14 2007

OFFICE OF PETITIONS

In re Application of :
Noriyuki Sasaki :
Application No. 10/658,333 : DECISION ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. 122.1567 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 9, 2007.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed September 28, 2006. Applicant filed an Amendment on December 28, 2006. However, the Amendment failed to place the application in condition for allowance, and Applicant was notified of such in an Advisory Action mailed January 23, 2007. No further reply was received. Accordingly, the application became abandoned on December 29, 2006. A Notice of Abandonment was mailed on September 24, 2007.

On petition, petitioner argues that he filed an RCE on February 26, 2007. In support thereof, petitioner has included a copy of a USPTO date stamped postcard receipt, itemizing an RCE and dated February 26, 2007. Lastly, a review of Office records reveals that the Office received the fee for both the RCE and a two month extension of time on February 26, 2007. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 2629 for consideration of the RCE filed February 26, 2007 (a copy of which has been supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FLOOR
BOSTON, MA 02110

MAIL

MAR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Mark Smith, et al. :
Application No. 10/658352 :
Filed: September 9, 2003 :
For: DATA ADAPTATION PROTOCOL :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record received October 21, 2004.

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

A revocation of attorney was filed on November 9, 2004 and was accepted by the Office on February 8, 2005.

For the reason stated above the request is **DISMISSED AS MOOT.**

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

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Kudirka & Jobse, LLP
One State Street
Suite 800
Boston, MA 02109

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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Mark Smith	: DECISION ON REQUEST FOR
Patent Number	: 7586925	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1657** 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

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

PETITION DECISION

04/12/04

Stephanie L. Seidman
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/658355 received on 03/09/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/658,356			

EXAMINER

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed January 10, 2005 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(2)(i) and 1.97(e)

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

Thomas H. Tarcza

Thomas H. Tarcza
SPE Art Unit 3662
703-306-4171

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Saraswat, et al.	:	
Application No. 10/658,362	:	DECISION ON PETITION
Filed: September 8, 2003	:	TO WITHDRAW
Attorney Docket No. KIRU-0012	:	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 21, 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 Peter M. Ullman on behalf of all attorneys of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 23377 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 Vijay A. Saraswat at the address indicated below.

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

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Vijay Anand Saraswat
208 Morris Avenue
Mountain lakes, NJ 07046

cc: Mr. Ashok Tankha, Esq.
IP Procure, Inc.
36 Greenleigh Drive
Sewell, NJ 08080

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
10/658,362	09/08/2003	Vijay Anand Saraswat	KIRU-0012

CONFIRMATION NO. 2109

OC000000020276029

OC000000020276029

23377
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 09/01/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/21/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
11682 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130-2092

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of	:	
Gene Gould et al	:	
Application No. 10/658,363	:	DECISION GRANTING PETITION
Filed: September 8, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P 016417 305324	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 8, 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 June 9, 2005. A Notice of Abandonment was mailed on September 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply/amendment to the non-final Office action of March 8, 2005; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 8, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2877 for appropriate action in due course on the reply received March 8, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN INGERSOLL PC
(Including Burns, Doane, Swecker & Mathis)
Post Office Box 1404
Alexandria, VA 22313-1404

MAR 0 1 2006

In re Application of: Yoshiki Hirano et al. Serial No.: 10/658,392 Filed: September 10, 2003 Attorney Docket No.: 033897-002	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 originally filed on March 14, 2005 and basically refiled on July 13, 2005, August 17, 2005 and December 30, 2005, respectively. There is no fee for this petition.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed on April 21, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Petitioner indicates that the Office action was never received by the applicant. More specifically, petitioner asserts that the Office action was returned to the U.S. Patent and Trademark Office "as undelivered" and provides a copy of a printout from PAIR (Patent Application Information Retrieval) as evidence of such. A review of the file record does indicate that the Office action mailed on April 21, 2004 was returned to the U.S. Patent and Trademark Office on May 4, 2004.

Accordingly, the Notice of Abandonment mailed January 11, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

This application is being forwarded to the Technical Support Staff of Technology Center 2800 for the remailing of the Office action of April 21, 2004. The remailing of the Office action will start a new three month shortened statutory period for response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN INGERSOLL PC
P.O. BOX 1404
ALEXANDRIA, VA 22313

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Yoshiki Hirano et al.	:	DECISION ON APPLICATION
Application No. 10/658,392	:	FOR PATENT TERM ADJUSTMENT
Filed: September 10, 2003	:	
Atty. Dkt. No.: 1033897-000002	:	

This is a decision on the "Request for Patent Term Adjustment" filed June 23, 2006. Applicants request the reinstatement of two hundred and thirty-six (236) days of patent term, such that the initial determination of patent term adjustment under 35 U.S.C. 154(b) would be corrected from zero (0) days to two hundred and thirty-six (236) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 24, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. On June 23, 2006, applicants timely submitted[1] an application for patent term adjustment asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 236 days. Applicants

[1] PALM records indicated that the Issue Fee payment was received on July 12, 2006.

assert that the patent term adjustment should not have been reduced by six hundred and three days (603) because applicants never received the Non-Final Rejection mailed by the PTO on April 21, 2004. Therefore, applicants could not file a response to the action within three months. Applicants point to the Office action returned by the postal office to the USPTO on May 4, 2004 as support for their contention. Accordingly, applicants believe the delay pursuant to 37 CFR 1.704(b) to be zero days. Applicants further assert that the USPTO failed to timely reply to the March 14, 2005 response until March 7, 2006. Applicants contend that the proper PTA determination at the time of the mailing of the Notice of Allowance is two hundred and thirty-six (236) days under CFR 1.702(a)(2).

Applicants are correct that a period of reduction of 603 days should not have been entered for applicants taking until March 16, 2006 to file a response to the Office action mailed April 21, 2004. The record establishes that the Office action mailed April 21, 2004, and properly addressed by the Office was returned by the postal service. Further, on March 7, 2006, the Office re-mailed the Office action and restarted the period for reply. Given this re-mailing and restarting of the time period, any period of reduction for applicant delay should be based on the mailing of the Office action on March 7, 2006, not April 21, 2004. As applicants filed a response to the Office action within three months, on March 16, 2006, there was no applicant delay within the meaning of § 1.704(b).

At the same time, there was no Office delay within the meaning of § 1.702(a)(1) for the Office failing to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). The non-final Office action was mailed on April 21, 2004, which was within fourteen months of the filing date of the application, September 10, 2003. Further, the record supports a conclusion that the Office action was properly mailed to the correspondence address of record. The return of the Office action by the postal service does not appear to be due to any error on the part of the Office. As it has not been shown that this re-mailing was due to any error on the part of the Office in mailing the first Office action, the re-mailing of the Office action does not constitute a delay by the Office within the meaning of 35 U.S.C. 154(b).

Further, with respect to the reply submitted on petition to withdraw holding of abandonment, there was no Office delay

within the meaning of § 1.702(a)(2) for the Office failing to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken. Entry of a period of reduction of 236 days is not warranted. By decision mailed March 7, 2006, the Office responded to a petition. The provisions of § 1.702(a)(2) do not provide for entry of a period of adjustment for the Office taking in excess of four months to respond to a petition. Further, pursuant to the request to withdraw the holding of abandonment and petitioner's contention that the Office action was never received, the holding of abandonment was withdrawn, and the Office action mailed April 21, 2004 was re-mailed and the period for reply re-started. Prosecution continued with the filing of applicants' reply filed March 16, 2006. The response received on petition did not give rise to the Office mailing a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. Thus, there was no calculation of Office delay for taking in excess of four months to respond to the response received on petition filed March 14, 2005.

Further, there was no Office delay in responding to applicants' reply filed March 16, 2006 (in response to the Office action re-mailed on March 7, 2006). The Office mailed a Notice of Allowance on April 24, 2006, which was in response to, and within four months of, the filing of the response.

However, with respect to the abandonment of the application, there is a basis for entry of a period of reduction for applicant delay. It is noted that the Office issued a Notice of Abandonment on January 11, 2005 for failure to respond to the April 21, 2004 Office action. On March 14, 2005, 2 months and 3 days later, applicants filed a Petition to Withdraw the Holding of Application and a response. Preliminarily, applicants are advised that entry of a period of reduction of 3 days is warranted pursuant to 1.704(c)(4), which provides that:

> Failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is zero (0) days, including 3 days of applicant delay.

Submission of the $200 fee set forth in § 1.18(e) is acknowledged. No additional fee is required.

The Office will forward the file to the Office of Patent Publication so that the patent can be issued in a timely manner. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

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

BUCHANAN INGERSOLL PC
P.O. BOX 1404
ALEXANDRIA, VA 22313

COPY MAILED
DEC 23 2008

In re Application of	:	
Yoshiki Hirano et al.	:	DECISION ON REQUEST FOR
Application No. 10/658,392	:	RECONSIDERATION OF
Filed: September 10, 2003	:	DECISION ON APPLICATION
Atty. Dkt. No.: 1033897-000002	:	FOR PATENT TERM ADJUSTMENT

This is a decision on the "Request for Reconsideration of Decision on Application for Patent Term Adjustment" filed January 30, 2007. Receipt of the status letter filed May 11, 2007 is acknowledged. Patentee requests that the patent term adjustment determination under 35 U.S.C. 154(b) in the decision of December 14, 2006 be changed from zero (0) days to four hundred eighty-two (482) days.

The request for reconsideration of the decision of December 14, 2006 is granted; however, the request for reconsideration is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On April 24, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) of 0 days in the above-identified application. On June 23, 2006, patentee filed an application for patent term adjustment asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 236 days, including zero days of applicant delay and two hundred thirty-six (236) days of Office delay.

By decision mailed December 14, 2006, the Office granted the application for patent term adjustment to the extent that the period of applicant delay of 603 days was removed. Patentee had

not received the Office action and thus, no reduction for taking in excess of three months to reply to it was warranted. However, with respect to entering a period of adjustment of 236 days for Office delay, the Office determined no such entry was warranted as the record supported a conclusion that the Office action was properly mailed to the correspondence address of record.

On request for reconsideration, patentee argues that the return of the Office action by the postal service was due to Office error and not postal service error.

Patentee's arguments have been considered, but not found persuasive. The re-mailing of the Office action does not constitute a delay by the Office within the meaning of 35 U.S.C. 154(b). The application was filed on September 10, 2003. A first Office action was mailed to applicants at Post Office Box 1404, Alexandria VA 22313-1404 on April 21, 2004. This was within fourteen months of the filing date of the application, September 10, 2003. Thus, there was no Office delay within the meaning of 37 CFR § 1.702(a)(1). Patentee's evidence does not overcome the conclusion that the Office action was properly mailed to the correspondence address of record. Patentee's evidence does not establish Office error or Office delay.

In view thereof, the patent properly issued with a revised patent term adjustment of one hundred twenty-five (125) days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Koichi UENO
Application No. 10/658,395
Filed: September 10, 2003
For: STORAGE DEVICE AND STORAGE DEVICE CONTROL METHOD

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

This is a response to the Petition filed February 15, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. Petitioner's indication that the present Petition had been previously submitted on December 29, 2004 with an incorrect application number is acknowledged.

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

SDL: 04/11/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 6/11/07

TO SPE OF : ART UNIT 1743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/658412 Patent No: 7189369 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: _____

SPE — 1743 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

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

OLDS, MAIER & RICHARDSON
1000 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Kazuto Kinoshita, et al.	:	
Application No. 10/658,422	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. 41812US3DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 26, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

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), including the fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

The application is being referred to Technology Center AU 1762 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 022004

DUCKOR SPRADLING METZGER
401 West A Street, Suite 2400
San Diego, CA 92101-7915

FEB 24 2004

In re Application of:
SMITH *et al.*
Serial No.: 10/658,440
Filed: September 08, 2003
Attorney Docket No.: **7719-116**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 08, 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(i), (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 Clayton E. LaBalle at (571) 272-1594.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

COPY MAILED

APR 13 2006

OFFICE OF PETITIONS

In re Application of
Sullivan et al.
Application No. 10/658,446
Filed: September 8, 2003
Title: Perimeter Weighted Golf Ball

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 30, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned September 14, 2005 for failure to timely reply to the final Office Action mailed on June 13, 2005. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed March 3, 2005.

Petitioner asserts that a reply to the final Office Action was timely submitted on August 3, 2005. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission, and a copy of the Office's auto reply pursuant to 37 CFR 1.8.

The response submitted August 3, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing of the RCE.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRADFORD A. DONOVAN, P.L.L.C.
8400 SOUTH KYRENE ROAD, SUITE 120
TEMPE AZ 85284

COPY MAILED

NOV 2 4 2009

OFFICE OF PETITIONS

In re Application of

CROWLEY, Timothy et al.
Application No. 10/658,447
Filed: September 08, 2003
Attorney Docket No. **IP1806.0003**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 05, 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 Bradford Donovan, the sole attorney of record. Bradford Donovan has been withdrawn as attorneys or agents of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Timothy Crowley at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **TIMOTHY CROWLEY**
16656 S. 37TH WAY
PHOENIX AZ 85048

cc: **VINCENT PIZZICONI**
1753 E. BROADWAY ROAD
SUITE 101
TEMPE AZ 85282

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

CECILY O'REGAN
WILSON SONSINI GOODRICH
& ROSATI, PC
650 PAGE MILL ROAD
PALO ALTO, CA 02536

COPY MAILED

APR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/658,449	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. 29914-701.407	:	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, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Wilson, Sonsini & Goodrich, PC has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: SHAY LAW GROUP
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO CA 94403

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

TAIYO CORPORATION
401 HOLLAND LANE
#407
ALEXANDRIA, VA 22314

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:
Fukui	:
Application No. 10/658,470	: DECISION ON PETITION
Filed: September 10, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FSF-031461	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. 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 Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1752 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
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,470	09/10/2003	1752	750	FSF-031461	1	9	2

CONFIRMATION NO. 2212
CORRECTED FILING RECEIPT
OC000000020227224
OC000000020227224

37398
TAIYO CORPORATION
401 HOLLAND LANE
#407
ALEXANDRIA, VA 22314

Date Mailed: 08/29/2006

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)

Kouta Fukui, Kanagawa, JAPAN;

Power of Attorney:

Margaret Burke--34474
Sheldon Moss--52053

Domestic Priority data as claimed by applicant

This application is a CIP of 10/002,170 12/05/2001 PAT 6,682,878

Foreign Applications

JAPAN 2002-267756 09/13/2002
If Required, Foreign Filing License Granted: 12/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/658,470

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Photothermographic material, and image forming method using same

Preliminary Class

430

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 11 2007

OFFICE OF PETITIONS

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:	
REILEY, Mark A.	:	
Application No. 10/658,499	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. **29914-701.403**	:	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, 2006.

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

A review of the file record indicates that the power of attorney to WILSON SONSINI GOODRICH & ROSATI has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAY LAW GROUP LLP**
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

COPY MAILED

JUL 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/658,507	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. 9448.17205-CIP DIV 11	:	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, 2006.

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

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group LLP**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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.

GLEN E. SCHUMANN
C/O MOSS & BARNETT
90 SOUTH SEVENTH STREET
4800 WELLS FARGO CENTER
MINNEAPOLIS MN 55402-4129

COPY MAILED
APR 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Scott Jester	:	
Application No. 10/658,508	:	DECISION ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 47109.1	:	

This is a decision on the petition filed October 31, 2005, 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 reply to the "Notice to File Corrected Application Papers" mailed December 1, 2003, requiring replacement drawings in compliance with 37 CFR 1.84 and 1.121. This Notice set a period for reply of two (2) months from the mailing date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) permitted. No reply having been received and no extension obtained, the above-identified application became abandoned on February 2, 2004. A courtesy Notice of Abandonment was mailed on November 4, 2004.

With the instant petition, petitioner paid the petition fee; filed the required reply in the form of replacement drawings; and included the required statement of unintentional delay. The statement was made by Patrick Buhl, president of the assignee company. A 3.73(b) statement and a copy of the assignment were submitted on filing of the application.

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

Petitioner has, thereby, met the requirements for a grantable petition under § 1.137(b).

The application file is being forwarded to the Office of Initial Patent Examination for consideration of the response to Notice to File Corrected Application Papers submitted on petition filed October 31, 2005.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Gail S. Lebovic	: DECISION ON REQUEST FOR
Patent Number	: 7601113	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1617** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE ST
CHICAGO IL 60661-3693

COPY MAILED

APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Miller, et al.	:	
Application No. 10/658,529	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. 215105.01500	:	

This is a decision on the "PETITION TO WITHDRAW NOTICE OF ABANDONMENT UNDER 37 CFR 1.181(a)", filed November 30, 2004, to withdraw the holding of abandonment of the above-identified application. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed December 8, 2003. This Office action set a shortened period for reply of two (2) months for applicants to submit an executed oath or declaration, a $130 fee for its late filing, and replacement drawings. No reply having been received, the above identified application became abandoned on February 9, 2004. A Notice of Abandonment was mailed on November 4, 2004.

Petitioner contends that he did timely file a reply to the Notice to File Missing Parts. In support, petitioner has included a copy of a properly itemized, USPTO date-stamped postcard receipt, itemizing that a complete reply was filed on April 8, 2004. The postcard itemized checks in the amount of $130 for the late surcharge and $420 for a two month extension of time.

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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Given the basis for granting this petition, no petition fee was required and none has been charged. However, as applicants have submitted no proof that the Office cashed the checks filed on April 8, 2004, $130 and $420 have been charged to Deposit Account No. 50-1710, as authorized.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 21 2005

Technology Center 2100

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

In re Application of: Iwamitsu et al.
Application No. 10/658,530
Filed: September 10, 2003
For: STORAGE SYSTEM AND METHOD FOR DIAGNOSING FAILURE OF THE STORAGE SYSTEM

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

This is a response to the petition filed May 23, 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

AWK

AWK

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

COPY MAILED
JUL 20 2006
OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:	
Allen L. Price et al	:	
Application No. 10/658,550	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. 01573.001200	:	

This is a decision on the petition under 37 CFR 1.182, filed February 6, 2006, to change the order of inventorship.

The petition is **Dismissed as moot.**

The petition is dismissed in view of the request to withdraw the petition filed June 29, 2006.

The petition fee of $400 is being credited to petitioner's deposit account no. 06-1205 as requested.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robin L. Barnes
Storm & Hemingway
8117 Preston Rd.
Ste. 460
Dallas, TX. 75225

In re Application of
George Emanual
Application No. 10/658,569
Filed: September 9, 2003
For: IMPROVED LASER NOZZLE AND IODINE INJECTION FOR COIL
Attorney Docket No: KSY 02655 PTUS
Pub. No.: US 2004/0050979 A1
Pub. Date: March 18, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on May 24, 2004 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a)...The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application...The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of the section.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request also includes mistakes that are not the fault of the Office, which will not be corrected by a corrected publication by the Office.

[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 alleged error mentioned in paragraph [0088] will not be corrected as requested, as the text will be published as originally presented, the symbol was originally presented as a superscript. The "0" will be deleted.

The following errors mentioned below by applicant, will not be corrected in the corrected publication, as the errors are not apparent from the Office record.

The alleged errors in paragraphs [0051] and [0065] of the publication with respect to "changing x_j to x_i" will not be corrected as requested by applicant as the text on the pages is very small and in such a poor quality that the errors are due to the quality of the text. Applicant is advised that he may want to file application papers that are clearer, as some of the errors are due to faint or slightly blurred text.

The alleged errors in paragraphs [0091] and [0106] of the publication with respect to changing the "*" to superscripted will not be corrected as requested by applicant as the text on the pages is very small and in such a poor quality that the errors are due to the quality of the text.

The alleged error in paragraph [0134] of the publication with respect to "Deleting the comma after y_i" will not be corrected as requested by applicant as the text on the pages is very small and in such a poor quality that the errors are due to the quality of the text. Applicant is advised that he may want to file application papers that are clearer, as some of the errors are due to faint or slightly blurred text.

The alleged error in paragraph [0134] of the publication with respect to adding the dot over the "m" will not be corrected as requested by applicant as the text on the pages is very small, blurry and in such a poor quality that the errors are due to the quality of the text. Applicant is advised that he may want to file application papers that are clearer, as some of the errors are due to faint or slightly blurred text.

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 703-305-8568

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

Shelly Littman, For

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 2 3 2008

OFFICE OF PETITIONS

STORM LLP
BANK OF AMERICA PLAZA
901 MAIN STREET, SUITE 7100
DALLAS, TX 75202

In re Application of

George Emanuel

Application No. 10/658,569

Filed: September 9, 2003

Attorney Docket No. KSY 02655 PTUS

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed May 1, 2008.

The petition is **granted**.

This application was held abandoned on August 13, 2007, after it was presumed that a timely and proper response was not received to the Office action mailed July 12, 2007, which set a shortened statutory period for reply of one (1) month from its mailing date. Extensions of the time for reply were available pursuant to 37 CFR 1.136(a). A response was received on August 7, 2007. By a communication mailed October 18, 2007, petitioner was informed that the response of August 7, 2007, was not fully responsive to the Office action mailed July 12, 2007. The period for reply remained as set forth in the Office action mailed July 12, 2007. A response was filed on November 12, 2007. On April 15, 2008, a Notice of Abandonment was mailed indicating that the response of November 12, 2007, was untimely as it was not accompanied by an extension of time under 37 CFR 1.136(a).

The instant petition was file on May 1, 2008. Petitioner maintains that the response of November 12, 2007, was timely because it contained a standing general authorization to charge a deposit account for any additional fees deemed necessary, excluding the issue fee.

A review of the response filed November 12, 2007, reveals a standing authorization to charge a deposit account for additional fees, which might include fees for an extension of time. It is noted that 37 CFR 1.25(b) provides, in pertinent part that:

> Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed. An authorization to charge fees under § 1.16 in an international application entering

> the national stage under 35 U.S.C. 371 will be treated as an authorization to charge fees under § 1.492. An authorization to charge fees set forth in § 1.18 to a deposit account is subject to the provisions of § 1.311(b). An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 or § 1.913 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

Accordingly, if sufficient funds were present in the deposit account on November 12, 2007, the USPTO could have charged the deposit account for the extension of time within the third month necessary to make the November 12, 2007, response timely. The petition to withdraw the holding of abandonment is granted on the basis of the general authorization to charge the deposit account found in the papers filed November 12, 2007, and the assumption that sufficient funds were in the account on November 12, 2007, to charge said amounts.

The application file is being directed to Technology Center 3700, GAU 3752 were the response of November 12, 2007, will be considered on its merits.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Lynch
Duane Morris LLP
One Market
Spear Tower, Suite 2000
San Francisco, CA 94105

COPY MAILED
MAR 24 2004
OFFICE OF PETITIONS

In re Application of :
Dabney, et al. :
Application No.: 10/658,572 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket No.: R0367-01901 :

This a decision on the petition filed January 22, 2004, titled "Petition for Reconsideration of Notice of Omitted Items." The petition will be treated as request to withdraw the Notice of Omitted Items in a Nonprovisional Application" (the "Notice") mailed December 4, 2003, in the above-cited application.

The petition is **dismissed.**

The application was filed on September 9, 2003. The application included thirty-three sheets of drawings, however; none of the figures encompassed in the drawings were labeled "Figure 13" and "Figure 14" as identified in the specification. Accordingly on December 4, 2003, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of September 9, 2003, but that Figures 13 and 14 appeared to have been omitted.

In response, the present petition was filed. Petitioner therein argued that Figures 13 and 14 were included among the drawings and that petitioner has an Office date-stamped postcard acknowledging receipt of thirty-six sheets of drawings. The petition was accompanied by two sheets of drawings containing Figures 13 and 14.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the "Office) file is the official record of the papers originally filed in this application. A review of the application file reveals that thirty-three sheets of drawings were filed on September 9, 2003, but no figures labeled 13 or 14 were found among the thirty-three sheets of drawings originally filed. The Office of Initial Patent Examination correctly issued a Notice of Omitted Items of Nonprovisional Application for Figures 13 and 14 because no figure having such a reference was found in the drawings. Further, the petition papers filed January 22, 2004, did not include a copy of the Office date-stamped postcard, although petitioner indicated that such evidence would be provided.

The petition is dismissed.

Of course, applicant may submit figures labeled 13 and 14 in the form of an amendment for consideration by the examiner to determine whether the drawing contains new matter compared to the original specification and drawings filed September 9, 2003. See 37 CFR 1.121.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of September 9, 2003, using the thirty-three sheets of drawings filed September 9, 2003.

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

Kenya A. McLaughlin

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
www.uspto.gov

Edward J. Lynch
Duane Morris LLP
One Market
Spear Tower, Suite 2000
San Francisco, CA 94105

COPY MAILED

DEC 29 2006

OFFICE OF PETITIONS

In re Application of :
Dabney, et al. :
Application No. 10/658,572 :
Filed: September 9, 2003 :
Attorney Docket No. R0367-01901 :

ON PETITION

This is a decision on the renewed petition filed September 13, 2004, titled "Request for Reconsideration of Decision on Petition Mailed March 24, 2004."

On September 9, 2003, the above-identified application was filed. On December 4, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application" (the "Notice"), stating, in part, that the application had been accorded a filing date of September 9, 2003, however, Figures 13 and 14 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on September 13, 2004, applicants filed the instant renewed petition and a copy of an Office date-stamped postcard showing that, among other items, thirty-six sheets of drawings were received on September 9, 2003.

Upon review of the record, Figures 13 and 14 have not been located among the application papers. However, the evidence is convincing that the application papers deposited September 9, 2003, included Figures 13 and 14 which were subsequently misplaced by the Office. Therefore, the application, including Figures 13 and 14, was complete on filing and entitled to the presently accorded filing date of September 9, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

The application file is being directed to the Office of Patent Publications for further processing with the presently accorded filing date of September 9, 2003, with the thirty-six sheets of drawings filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

APR 15 2005

Technology Center 2100

In re Application of:
Jamey GRAHAM
Application No.: 10/658,592
Filed: September 8, 2003
For: METHOD AND SYSTEM FOR ORGANIZING DOCUMENT INFORMATION IN A NON-DIRECTED ARRANGEMENT OF DOCUMENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 16, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

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

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

cc: Blakely Sokoloff Taylor and Zafman LLP
12400 Wilshire Boulevard
Suite 700
Los Angeles, CA 90025

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

COPY MAILED

AUG 2 0 2007

OFFICE OF PETITIONS

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of
Hainfeld
Application No. 10/658,609
Patent No. 7,183,072
Filed: Sept. 8, 2003
Attorney Docket No. 6270-705.501

: DECISION DISMISSING PETITION

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" timely[1] filed on May 11, 2007 requesting that the Office adjust the patent term adjustment from a determination of three hundred and fourteen (314) days to a determination of three hundred and fifteen (315) days.

Applicant's PTA application is **DISMISSED.**

Applicant argues that the Office's reduction of 19 days for the submission of a 312-amendment is in error. Applicant believes that the proper reduction for the submission of the 312-amendment is 18 days rather than the Office assessed amount of 19 days. Applicant asserts that the time between the submission date of December 22, 2006 and the date of reply by the Office, January 9 2007 is 18 days.

Applicant's argument is not deemed persuasive. Specifically, the reduction of 19 days for the submission of the 312-amendment is accurate. See 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10) the reduction begins on the date of the submission of the 312 amendment and ends on the date of the mailing of the notice of allowance and accordingly both the dates of December 22, 2006 and January 9, 2007 are considered days in which applicant failed to engage in reasonable efforts to conclude prosecution of the application. Respectfully, applicants premise of only counting the " number of days between December 22, 2006 and January 9, 2007" is not accurate. Accordingly the correct amount of PTA at the time of the issuance of the patent is 314 days.[2]

After the mailing of this decision, the Office will forward this application to the file repository for storage of the file record.

---

[1]Patent issued on Feb. 27, 2007.

[2]The Office delayed 333 days pursuant to 37 CFR 1.702(a)(1) and applicant delayed 19 days pursuant to 347 CFR 1.704(c)(10).

The Office has assessed the $200.00 fee for the filing of this application for Patent Term Adjustment. No additional fees are required.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries

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

Day : Friday
Date: 8/17/2007

PALM INTRANET

Time: 13:45:02

PTA Calculations for Application: 10/658609			
Application Filing Date:	09/08/2003	PTO Delay (PTO):	333
Issue Date of Patent:	02/27/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	19
Post-Issue Petitions:	0	Total PTA (days):	314
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	02/27/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
70	01/29/2007	EXPORT TO FINAL DATA CAPTURE			
69	01/26/2007	DISPATCH TO FDC			
68	01/26/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
67	01/26/2007	WORKFLOW - REQUEST FOR RCE - FINISH			
66	01/24/2007	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
65	01/24/2007	ISSUE FEE PAYMENT VERIFIED			
64	01/24/2007	ISSUE FEE PAYMENT RECEIVED			
63	01/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	01/09/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
61	01/05/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
60	12/22/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		19	62
59	12/06/2006	FINISHED INITIAL DATA CAPTURE			
58	10/30/2006	EXPORT TO INITIAL DATA CAPTURE			
57	10/26/2006	MAIL NOTICE OF ALLOWANCE			
56	10/26/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
55	10/26/2006	MAIL EXAMINER'S AMENDMENT			
54	10/24/2006	ISSUE REVISION COMPLETED			
53	10/24/2006	DOCUMENT VERIFICATION			
52	10/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	10/24/2006	CASE DOCKETED TO EXAMINER IN GAU			

50	08/24/2006	EXAMINER'S AMENDMENT COMMUNICATION			
49	08/24/2006	NOTICE OF ALLOWABILITY			
48	08/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	04/24/2006	MAIL NON-FINAL REJECTION			
46	04/20/2006	NON-FINAL REJECTION			
45	03/27/2006	DATE FORWARDED TO EXAMINER			
44	03/24/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	03/27/2006	DATE FORWARDED TO EXAMINER			
42	03/24/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	03/27/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	03/15/2006	MISCELLANEOUS INCOMING LETTER			
39	03/03/2006	MAIL FINAL REJECTION (PTOL - 326)			
38	02/28/2006	FINAL REJECTION			
37	02/17/2006	DATE FORWARDED TO EXAMINER			
36	02/09/2006	RESPONSE AFTER NON-FINAL ACTION			
35	12/23/2005	MAIL NON-FINAL REJECTION			
34	12/19/2005	NON-FINAL REJECTION			
33	05/06/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	11/15/2005	DATE FORWARDED TO EXAMINER			
31	11/07/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
30	10/07/2005	MAIL RESTRICTION REQUIREMENT	333		-1
29	10/03/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
28	09/08/2005	PRELIMINARY AMENDMENT			
27	07/22/2005	PRELIMINARY AMENDMENT			
26	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	03/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	03/19/2005	CORRESPONDENCE ADDRESS CHANGE			
23	03/21/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	09/08/2003	PRELIMINARY AMENDMENT			
21	05/06/2004	REFERENCE CAPTURE ON IDS			
20	05/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

19	01/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	11/28/2003	APPLICATION RETURN FROM OIPE			
17	12/01/2003	APPLICATION IS NOW COMPLETE			
16	11/28/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	11/28/2003	APPLICATION RETURN TO OIPE			
14	11/28/2003	APPLICATION RETURN FROM OIPE			
13	11/28/2003	APPLICATION IS NOW COMPLETE			
12	11/28/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
11	11/28/2003	APPLICATION RETURN TO OIPE			
10	11/28/2003	APPLICATION RETURN FROM OIPE			
9	11/28/2003	APPLICATION IS NOW COMPLETE			
8	11/28/2003	APPLICATION RETURN TO OIPE			
7	11/28/2003	APPLICATION DISPATCHED FROM OIPE			
6	11/28/2003	APPLICATION IS NOW COMPLETE			
5	09/08/2003	PGPUBS NONPUB REQUEST			
4	11/19/2003	CASE CLASSIFIED BY OIPE			
3	11/19/2003	CLEARED BY OIPE CSR			
2	10/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/08/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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

KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE, SUITE 107
THOUSAND OAKS CA 91360

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
MALCHAR, Richard :
Application No. 10/658,615 : DECISION ON PETITION
Filed: September 9, 2003 :
Attorney Docket No. 036366-0101 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 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, March 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

An extension of the under 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1660, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on September 28, 2006 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 Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 3764 for consideration of the amendment filed September 28, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARENT FOX PLLC
1675 BROADWAY
NEW YORK NY 10019

COPY MAILED

JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of
MITCHELL, et al.
Application No. 10/658,617
Filed: September 9, 2003
Attorney Docket No. **AP35003-A**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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 April 12, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (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). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Appeal fee of $250; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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.

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 1636 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FREDERICK W. GIBB, III
MCGINN & GIBB, PLLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS, MD 21401

COPY MAILED
AUG 1 1 2005
OFFICE OF PETITIONS

In re Application of :
Fan, et al. :
Filed: September 9, 2003 : ON PETITION
Application No. 10/658,623 :
Atty. Dkt. No.: YOR920030261US1 :

This decision is in response to the "PETITION UNDER 37 C.F.R. 1.17(H) AND RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION AND REQUEST FOR REFUND," filed June 9, 2005.

The application was filed September 9, 2003. The Notice mailed May 13, 2005 indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required.

In response, petitioners argue that the application as deposited included Figures 1-5. Petitioners have included as proof of mailing and proof of receipt of Figures 1-5 a return postcard date stamped by the Office on September 9, 2003. A copy of Figures 1-5 purportedly filed with the application on September 9, 2003 was also supplied.

The original Figures 1-5 submitted with the application papers have not been located. However, in view of the evidence presented, the Notice mailed May 13, 2005 is hereby **WITHDRAWN** and the petition to accord the application a filing date of September 9, 2003 is **GRANTED**.

Since the original drawing sheets cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $400.00 petition fee has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 9, 2003 with Figures 1-5 as part of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-08

FREDERICK W. GIBB, III
GIBB & RAHMAN, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

COPY MAILED

OCT 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Fan et al.	:	
Application Number: 10/658623	:	ON PETITION
Filing Date: 09/09/2003	:	
Attorney Docket Number:	:	
YOR920030261US1	:	

This is a decision on the petition to withdraw the holding of abandonment filed on October 15, 2008.

This application was held abandoned for failure to timely respond to the final Office action mailed on March 17, 2008, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on October 7, 2008. On October 15, 2008, the subject petition was filed.

Petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the final Office action mailed on March 17, 2008. In support of the allegation that the final Office action was never received, petitioner has submitted a copy of the law firm's mail log, docket sheets and docket report. Additionally, petitioners have provided a statement by registered patent practitioner Pamela M. Riley, stating that the final Office action was not shown on these reports because it was not received.

A review of the record indicates no irregularity in the mailing of the final Office action mailed on March 17, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action 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, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 2129 for remailing of the final Office action mailed on March 17, 2008. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

Jonathan O. Owens
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale, CA 94086

Mail Date: 04/21/2010

Applicant	: Naoyuki Sato	: DECISION ON REQUEST FOR
Patent Number	: 7613835	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1090** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

COPY MAILED

JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Mark A. Reiley :
Application No. 10/658,651 :
Filed: September 9, 2003 :
Attorney Docket No. 29914-701.410 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 8, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Wilson, Sonsini, Goodrich & Rosati has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHAY LAW GROUP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 28, 2010

Patent No. :7706295
Ser. No. :10/658666
Inventor(s) : Francis Campana et al.
Issued :April 27, 2010
Title :METHODS AND APPARATUS FOR BREAKING AND REYNCRHONIZING
:AT DATA LINK

Re: Request for Certificate of Correction

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

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

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

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

A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Michael D. Wiggins
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

/arg

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

PATTERSON THUENTE SKAAR & CHRISTENSEN
4800 IDS CENTER, 80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Nancy Tulgren et al	:	
Application No. 10/658,670	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 3135.02US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2005, 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 26, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on January 26, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 7, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 27, 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 a Request for Continued Examination (RCE); (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 26, 2004 is accepted as having been unintentionally delay.

Pursuant to petitioner's authorization, Deposit Account No. 16-0631 was charged a total of $1,145.00 -- $752.00 for the petition to revive an unintentionally abandoned application and $395.00 for the RCE fee.

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

This matter is being referred to Technology Center AU 3643.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

COPY MAILED

NOV 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,544,381	:	DECISION
Steve Kangas	:	DISMISSING REQUEST FOR
Issue Date: June 9, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/658,729	:	TERM ADJUSTMENT
Filed: September 9, 2003	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
S63.2B-10814-US01	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT, 37 CFR 1.705," filed on August 10, 2009, which is treated as an application for patent term adjustment under 37 CFR 1.705(d). Patentee requests that the Patent Term Adjustment for the above-identified patent be increased by 616 days from 1036 days to 1652 days.

Applicant requests that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1036 days.

BACKGROUND

On June 9, 2009, the above-identified application matured into U.S. Patent No. 7,544,381, with a revised Patent Term Adjustment of 1036 days. On Monday, August 10, 2009, the subject request for reconsideration was filed.

The Office determined that the 1004 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 1057 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 21 days, the patent issued with a revised patent term adjustment of 1036 (1057 - 21) days.

On August 10, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1652 days under the courts' interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1673 (1057 + 1004 - 388 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 21 days, patentee asserts entitlement to 1652 (1673 - 21) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that

periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, September 9, 2003, and ending on the date the application issued as a patent, June 9, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1057 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1004 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 1004 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1057 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1057 days and the 1004 days is neither permitted nor warranted. Considering the applicant delay of 21 days, the patent term adjustment is 1036 days.

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tadeus Donnell for

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

MAY 14 2010

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Patent No. 7544381	: DECISION ON REQUEST
Steve Kangas	: FOR
Issue Date: 06/09/2009	: RECONSIDERATION OF
Application No. 10/658729	: PATENT TERM ADJUSTMENT
Filed: 09/09/2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
S63.2-10814-US01	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred fifty-two (1652) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred fifty-two (1652) days is **GRANTED**.

No additional fee was due with the subject request for reconsideration. The $400.00 fee paid is being refunded to counsel.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six hundred fifty-two (1652)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,381 B2

DATED : **June 9, 2009** **DRAFT**

INVENTOR(S) : Kangas

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 1036 days.

Delete the phrase "by 1036 days" and insert – by 1652 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Steven C. Zimmel et al :
Application No. 10/658,739 :
Filed: September 8, 2003 :
Attorney Docket No. 2316.1794US01

ON PETITION

This is a decision on the petition, filed January 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 20 2010

OFFICE OF PETITIONS

PERKINS COIE LLP
607 FOURTEENTH STREET NW
WASHINGTON DC 20005

In re Application of	:	
Maender, et al.	:	
Application No. 10/658,752	:	ON REQUEST FOR
Filed: September 10, 2003	:	RECONSIDERATION OF
Attorney Docket Number: 00361-8006-US00	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that the correct total PTA to date is 409 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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, 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, 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).

The 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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 2 1 2004

Director's Office
Group 3700

INNO MED TECHNOLOGIES
232357 State Road 7
Suite 206-207
Boca Raton, FL 33428

In re application of
Thomas J. Wood

Serial Number: 10/658769
Filed: September 10, 2003

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

For: **NASAL INTERFACE AND SYSTEM INCLUDING VENTILATION INSERT**

This is a decision on the petition filed on April 30, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

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

rt: 10/20/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John S. Egbert
Harrison & Egbert
7th Floor
412 Main Street
Houston, TX 77002

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Pietro Cartella	:	
Application No. 10/658,784	:	ON PETITION
Filed: September 9, 2003	:	
Attorney Docket No. 1719-65	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

In response to the non-final Office action mailed May 6, 2004, petitioner hereby submits $1,500 for the petition to revive fee, an amendment, one (1) sheet of drawings containing Figures 1-3, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being referred to Technology Center Art Unit 3612, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions
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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED

JUN 1 3 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David A. Matthews, et. al. :
Application No. 10/658,786 :
Filed: September 9, 2003 :
Attorney Docket No. MSFT121179 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 18, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 7, 2006. A Notice of Abandonment was mailed on February 20, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gary D. Fedorochko 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 in whose behalf he acts. However, if Mr. Fedorochko desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since this application is not a utility or plant application filed on or before June 8, 1995, the Terminal Disclaimer that accompanied the petition filed on September 18, 2007 is unnecessary and the $130 fee will be refunded to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 2174 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Gary D. Fedorochko
Banner & Witcoff, Ltd.
1100 13th street, NW
Suite 1200
Washington, DC 20005-4051

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

Justin L. Krieger
Shook, Hardy & Bacon, LLP
Suite 800
600 14th Street, N.W.
Washington, DC 20005-2004

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Timothy Jon Leeper, et. al.	:	
Application No. 10/658,789	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. ANIC.108193	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application mailed December 3, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 3, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $665 for the petition to revive fee, $385 for the basic filing fee, a $65 surcharge for the late filing of an Oath/Declaration, $1,005 for a five (5) month extension of time, an executed Declaration, and a copy of originally filed drawing Figures 1A-1E, and Figure 2. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,005 extension of time, submitted with the petition on September 2, 2004, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET NW, SUITE 800
WASHINGTON, DC 20036-3425

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
H. Scott Goodrich et al	:	
Application No. 10/658,791	:	DECISION GRANTING PETITION
Filed: September 10, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 22129-00003-US2	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1775 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

---

[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

ROSSI & ASSOCIATES
P.O. BOX 826
ASHBURN VA 20146-0826

COPY MAILED

JAN 11 2007

OFFICE OF PETITIONS

In re Patent No. 6,999,259 :
Issued: February 14, 2006 :
Application No. 10/658,792 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket Number: FUJI:247 :

This is a decision on the petition, filed April 11, 2006, 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 was incorrectly identified as FUJI ELECTRIC CO., INC. on the Fee(s) Transmittal form PTOL-85(b)at the time of payment of the issue fee, and that it should have been properly identified as FUJI ELECTRIC CO., LTD. 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) as required by 3.81(b) was filed March 20, 2006 and dismissed in a decision mailed March 29, 2006 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 FUJI ELECTRIC CO., LTD. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS LLP
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

COPY MAILED
MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Mark R. Frye et al	:	
Application No. 10/658,793	:	DECISION DISMISSING PETITION
Filed: September 10, 2003	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 076041.0155	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 11, 2006, which is being treated as a petition under 37 CFR 1.313(a) (prior to payment of the issue fee) requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on February 22, 2006, with the issue and publication fees being due on or before May 22, 2006. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 3743 for appropriate processing of the RCE filed May 11, 2006, and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE R. Bovernick

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/658,302

Paper No.: _____

DATE : 8/4/05

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction on Patent No.: 6885798

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.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

SPE 2874 **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

JJGJR.: 08-06

Paper No: __

PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS MO 63131

COPY MAILED
AUG 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Bacon	:	
Application No. 10/658,820	:	DECISION
Filing Date: 8 September, 2003	:	
Attorney Docket No.: NB-DRY-1	:	

This is a decision on the petition filed on 25 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (oath/declaration, abstract) mailed on 1 December, 2003, with reply due absent extension of time on or before 1 February, 2004;
- on 9 April, 2004, Petitioner filed (over a certificate of mailing and with request and fee for extension of time) an oath/declaration but failed to submit an abstract as required;
- the instant application went abandoned by operation of law after midnight 1 April, 2004;
- it does not appear that the Office mailed a Notice of Abandonment before the instant

petition was filed;

- on 25 April, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of an abstract, and made the statement of unintentional delay.

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

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

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 25 April, 2006) does not necessitate a finding that the delay between midnight 1 April, 2004 (date of abandonment), and 25 April, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Bacon and Counsel Patrick D. Kelly (Reg. No. 30,650) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to OIPE for further processing in due course.

---

[9] 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

United States
Patent And
Trademark Office

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

PETITION DECISION

04/12/04

Stephanie L. Seidman
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/658834 received on 02/19/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of
Gantier, et al.
Application No. 10/658,834
Filed: September 8, 2003
Attorney Docket No. 120239
00005/922

: LETTER REGARDING PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE," filed July 17, 2009. 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 indicated herein.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is forty-nine (49) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On July 9, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 91 days. On July 17, 2009, applicants submitted the instant comment. Applicants disclose that applicants believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed July 9, 2009, may be longer than appropriate. Specifically, applicants state:

> Please review these PTA calculations with attention to the *Supplemental Response* filed December 1, 2006, after the *Response to Election* filed October 20, 2006, regarding Applicant delays, along with the subsequent mailing of the Non-Final Office action on April 4, 2007 for Office delays.

Excerpt from "Letter regarding Patent Term Adjustment at Allowance Pursuant to Comment 43 of the Final Rule", filed July 17, 2009, p. 1.

Pursuant to 37 CFR 1.704(c)(8),

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

A review of the application file record reveals that on April 20, 2006, a restriction requirement was mailed to which applicants filed a response on October 20, 2006. On December 1, 2006, applicants filed a supplemental response to the restriction requirement. Pursuant to 37 CFR 1.704(c)(8), it is appropriate to enter a reduction to the patent term adjustment of 42 days beginning from the day after the date the initial reply was filed, October 21, 2006, and ending on the date the supplemental reply was filed December 1, 2006. Accordingly, the period of reduction to the patent term adjustment of 42 days for applicant delay pursuant to 37 CFR 1.704(c)(8) will be entered.

The period of adjustment of 43 days for Office delay entered for the mailing of a non-final Office action on April 4, 2007, four months and 43 days after a response to the restriction requirement was filed on October 20, 2006, has been reviewed and is determined to be appropriate. See 37 CFR 1.704(b).

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is **forty-nine (49) days** (502 days of Office delay - 453 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Wednesday

PALM INTRANET

Date: 9/30/2009
Time: 09:51:58

PTA Calculations for Application: 10/658834			
Application Filing Date:	09/08/2003	PTO Delay (PTO):	502
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	411
Post-Issue Petitions:	0	Total PTA (days):	49
PTO Delay Adjustment:	-42		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
174	09/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		42	
145	07/09/2009	MAIL NOTICE OF ALLOWANCE			
144	07/06/2009	ISSUE REVISION COMPLETED			
143	07/06/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
142	07/02/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
141	07/02/2009	DOCUMENT VERIFICATION			
140	07/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
139	07/02/2009	NOTICE OF ALLOWABILITY			
129	04/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
128	04/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
127	05/13/2009	DATE FORWARDED TO EXAMINER			
126	04/27/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
125	05/13/2009	DATE FORWARDED TO EXAMINER			
124	04/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		73	120
123	05/13/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
122	04/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
121	04/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
120	11/13/2008	MAIL FINAL REJECTION (PTOL - 326)			
119	11/10/2008	FINAL REJECTION			
118	06/26/2008	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
117	10/14/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
116	09/06/2008	DATE FORWARDED TO EXAMINER			
115	08/22/2008	RESPONSE AFTER NON-FINAL ACTION		57	109
114	08/12/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
113	08/11/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
112	06/26/2008	REFERENCE CAPTURE ON IDS			
111	06/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
110	08/09/2008	DATE FORWARDED TO EXAMINER			
109.1	06/26/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
109	06/26/2008	RESPONSE AFTER NON-FINAL ACTION		92	104
108	06/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
107	06/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
106	05/29/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
105	05/20/2008	CORRESPONDENCE ADDRESS CHANGE			
104	12/26/2007	MAIL NON-FINAL REJECTION			
103	12/21/2007	NON-FINAL REJECTION			
99	10/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	10/09/2007	NEW OR ADDITIONAL DRAWING FILED			
97	10/09/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
96	10/18/2007	DATE FORWARDED TO EXAMINER			
95	10/09/2007	RESPONSE AFTER NON-FINAL ACTION		97	91
94	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
93	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
92	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
91	04/04/2007	MAIL NON-FINAL REJECTION	43		69
90	04/02/2007	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

89	10/20/2006	CONSIDERED			
88	09/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	07/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	01/04/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
85	08/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	01/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	01/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
82	11/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
81	01/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	01/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	02/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
78	02/01/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
76	12/20/2006	DATE FORWARDED TO EXAMINER			
75	12/01/2006	SUPPLEMENTAL RESPONSE			
73	10/20/2006	REFERENCE CAPTURE ON IDS			
72.7	10/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	10/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	10/20/2006	NEW OR ADDITIONAL DRAWING FILED			
70	10/31/2006	DATE FORWARDED TO EXAMINER			
69	10/20/2006	RESPONSE TO ELECTION / RESTRICTION FILED		92	65
68.7	09/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	09/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	07/12/2006	REFERENCE CAPTURE ON IDS			
66.7	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	07/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

65	04/20/2006	MAIL SUPPLEMENTAL RESTRICTION / ELECTION REQUIREMENT			
64	04/20/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
63	04/17/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
62	04/17/2006	SUPPLEMENTAL RESTRICTION			
59	03/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	02/10/2006	MAIL RESTRICTION REQUIREMENT	459		-1
57	02/06/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
56	01/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
55	01/04/2006	REFERENCE CAPTURE ON IDS			
54.7	01/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	01/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	08/31/2005	REFERENCE CAPTURE ON IDS			
52.7	08/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	08/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	08/31/2005	MISCELLANEOUS INCOMING LETTER			
49	08/19/2005	PRELIMINARY AMENDMENT			
48	07/11/2005	NEW OR ADDITIONAL DRAWING FILED			
47	01/04/2005	REFERENCE CAPTURE ON IDS			
46	11/09/2004	REFERENCE CAPTURE ON IDS			
45	07/11/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
44	07/11/2005	PRELIMINARY AMENDMENT			
43	04/29/2004	PRELIMINARY AMENDMENT			
42	04/08/2004	PRELIMINARY AMENDMENT			
41	02/19/2004	PRELIMINARY AMENDMENT			
40	07/21/2005	ERROR(S) IN CRF CORRECTED BY STIC			
39.7	01/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	01/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38.7	01/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

38	01/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37.7	11/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	11/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	07/02/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
35	07/01/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
34	06/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	06/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
32	06/24/2004	MAIL NON-COMPLIANT PRELIMINARY AMENDMENT			
31	06/24/2004	NON-COMPLIANT PRELIMINARY AMENDMENT			
30	04/08/2004	PRELIMINARY AMENDMENT			
29	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
28	06/24/2004	CASE DOCKETED TO EXAMINER IN GAU			
27	04/29/2004	PRELIMINARY AMENDMENT			
26	04/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	04/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	03/30/2004	APPLICATION RETURN FROM OIPE			
23	03/30/2004	APPLICATION IS NOW COMPLETE			
22	03/30/2004	APPLICATION RETURN TO OIPE			
21	03/30/2004	APPLICATION DISPATCHED FROM OIPE			
20	03/30/2004	APPLICATION IS NOW COMPLETE			
19	02/03/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
18	03/08/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
17	03/27/2004	REFERENCE CAPTURE ON IDS			
16.7	01/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	01/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/08/2004	SEQUENCE ERRORS			

13	02/03/2004	ADDITIONAL APPLICATION FILING FEES			
12	02/03/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	02/03/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
10	03/05/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	12/03/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
7	09/08/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	11/19/2003	CASE CLASSIFIED BY OIPE			
5	11/19/2003	CLEARED BY OIPE CSR			
4	10/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/26/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	09/08/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/08/2003	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

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

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

Mail Date: 04/21/2010

Applicant	: Rene Gantier	: DECISION ON REQUEST FOR
Patent Number	: 7611700	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/658,834	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **869** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

Mail Date: 05/18/2010

Applicant : Rene Gantier
Patent Number : 7611700
Issue Date : 11/03/2009
Application No : 10/658,834
Filed : 09/08/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **957** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,835	09/02/2003	3641	375	F-7943	4	9	1

CONFIRMATION NO. 3024

CORRECTED FILING RECEIPT

OC000000011567342

000028107
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

Date Mailed: 12/24/2003

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

Applicant(s)

Manfred Orth, Vellmar, GERMANY;

Assignment For Published Patent Application

Manfred ORTH, Vellmar, GERMANY;
Wilhelm GODDEK, Lohfelden, GERMANY;
Josef BEER, Kempten, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 41 764.4 09/10/2002

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Rifle comprising a stock and a housing with a housing sheath

Preliminary Class

042

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

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,836	08/21/2003	3713	3341	IGAM.003CP1	9	137	8

CONFIRMATION NO. 3025

UPDATED FILING RECEIPT

OC000000013214572

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 07/13/2004

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)

Rolf E. Carlson, Albuquerque, NM;
Michael W. Saunders, Henderson, NV;

Domestic Priority data as claimed by applicant

This application is a CIP of 09/143,907 08/31/1998 ABN
which is a DIV of 08/959,575 10/28/1997 PAT 6,272,223
which is a DIV of 08/358,242 12/19/1994 PAT 5,707,286
This application 10/658,836
is a CIP of 09/698,507 10/26/2000
which claims benefit of 60/161,591 10/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2003

Projected Publication Date: 10/21/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Universal gaming engine

Preliminary Class

463

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

GRANTED

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

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

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

NOT GRANTED

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

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)
6758132	2004-07-06	10/658,869	2003-09-09	79-000300US

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	/jonathan alan quine/	Date (YYYY-MM-DD)	2010-07-02
Name	Jonathan Alan Quine	Registration Number	41261

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. 6758132
Issue Date: July 6,2004
Application No. 10658869
Filed: September 9,2003
Attorney Docket No. 79-000300US

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

This is a decision on the electronic petition, filed July 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 2,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

COPY MAILED

SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Ozawa, et al.	:	DECISION DISMISSING
Application No. 10/658,872	:	PETITION
Filed: July 28, 2003	:	
Attorney Docket No. F-7936	:	

This is a decision on the papers styled, "Petition Under 37 CFR 1.131 Requesting Correction Of The Filing Date," filed August 23, 2004, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of August 26, 2003, rather than the presently accorded filing date of July 28, 2003.

The petition is **dismissed**.

Petitioners allege that the application was deposited in USPS Express Mail service on August 26, 2003. In support, the petition is accompanied by a copy of a USPS "Track & Confirm" document that indicates the Express Mail package with Express Mail label no. EV322920525US (the same number found on the new application transmittal) was *received* by the USPTO on August 28, 2003. It is noted that the USPS "Track & Confirm" document does *not* indicate when the item was actually deposited in the USPS Express Mail service. Furthermore, it is noted that USPTO records indicate application file no. 10/658,872 was filed on July 28, 2003.

Paragraph (c) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date

> as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label **showing the "date-in,"** and of any other **official notation by the USPS relied upon to show the date of deposit.**" (Emphasis supplied)

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

The petition filed August 23, 2004, is not accompanied by the required true copy of the "Express Mail" receipt. However, petitioner has submitted other official notation by the USPS in the form of the copy of the USPS "Track & Confirm" document. However, this document only shows the date of receipt of the item by the USPTO but fails to show the date of deposit, as required by 37 CFR 1.10(c)(3). As such, the filing date of August 26, 2003 cannot be found in the documentary evidence supplied by petitioner.

Accordingly, the petition filed August 23, 2004, does not contain the true copy of the "Express Mail" mailing label showing the "date-in" as required by the rule nor does it contain any other official notation by the USPS relied upon to show the date of deposit and as such must be dismissed. However, the dismissal is without prejudice to reconsideration if petitioner can provide the necessary "Express Mail" mailing label showing the "date-in" as required by the rule or any other official notation by the USPS relied upon to show the date of deposit of August 26, 2003.

It should be noted that based on the documentary evidence that has been submitted, petitioner may contend that the above-identified application was received by the USPTO on August 28,

2003. If petitioner wishes to pursue this later filing date, petitioner should do as such in any request for reconsideration that petitioner may wish to file.

The application is being returned to Technology Center 2800 with the presently accorded filing date of July 28, 2003.

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

COPY MAILED

OCT 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Ozawa, et al.	:	DECISION DISMISSING
Application No. 10/658,872	:	PETITION
Filed: August 28, 2003	:	
Attorney Docket No. F-7936	:	

This is a decision on the papers styled, "Petition Under 37 CFR 1.131 Requesting Correction Of The Filing Date," filed August 23, 2004, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of August 26, 2003, rather than the presently accorded filing date of July 28, 2003. The petition was supplemented with a "Second Petition Under 37 CFR 1.10(c) Requesting Correction of the Filing Date," on September 20, 2004.

The petition is **dismissed** in part and **granted** in part.

Petitioners allege that the application was deposited in USPS Express Mail service on August 26, 2003. In support, the petition is accompanied by a copy of a USPS "Track & Confirm" document that indicates the Express Mail package with Express Mail label no. EV322920525US (the same number found on the new application transmittal) was *received* by the USPTO on August 28, 2003. It is noted that the USPS "Track & Confirm" document does *not* indicate when the item was actually deposited in the USPS Express Mail service. Furthermore, it is noted that USPTO records indicate application file no. 10/658,872 was filed on July 28, 2003.

Paragraph (c) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail"

mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

The petition filed August 23, 2004, is not accompanied by the required true copy of the "Express Mail" receipt. However, petitioner has submitted other official notation by the USPS in the form of the copy of the USPS "Track & Confirm" document. However, this document only shows the date of receipt of the item by the USPTO but fails to show the date of deposit, as required by 37 CFR 1.10(c)(3). As such, the filing date of August 26, 2003 cannot be found in the documentary evidence supplied by petitioner.

Accordingly, the petition filed August 23, 2004, does not contain the true copy of the "Express Mail" mailing label showing the "date-in" as required by the rule nor does it contain any other official notation by the USPS relied upon to show the date of deposit and as such must be dismissed.

However, it is noted that based on the documentary evidence that has been submitted, petitioner may contend that the above-identified application was, in fact, received by the USPTO on August 28, 2003. As illustrated by the USPS "Track & Confirm" information provided by petitioner, the Express Mail Label number placed on the application as filed, Express Mail Label No.

EV322920525US, was received by the USPTO on August 28, 2003. As noted in the "Second Petition Under 37 CFR 1.10(c) Requesting Correction of the Filing Date," on September 20, 2004, "applicants respectfully requests reconsideration and that the above-identified application be considered as having been received by the USPTO on August 28, 200[3]." As the documentary evidence indicates the package containing the above-identified application and bearing Express Mail Label No. EV322920525US was received by the USPTO on August 28, 2003, this request is granted.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of August 28, 2003 and issuance of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 7-22-2005

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6888907

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.

MT

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.

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

Comments:

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

3641

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL SURFACE WARFARE
CENTER DAHLGREN DIVISION
OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
DAHLGREN, VA 22448-5110

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas W. SMITH	:	
Application No. 10/658,896	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. 79544	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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).

Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed April 12, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 10 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Sundararajan Sriram
Application No. 10/658,902
Filed: September 10, 2003
Attorney Docket No. TI-28564.1

This is a decision on the petition filed November 20, 2007, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned August 10, 2007 for failure to timely reply to the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 and which set a thirty day period for response. No response having been filed, a Notice of Abandonment was mailed November 6, 2007.

The file record discloses that the Notice to File Corrected Application Papers was sent to what was believed to be the email address of record. However, petitioner contends that it was not received. In support of this contention, petitioner indicates that Applicant's representative checked the file wrapper for the above-identified application but could find no copy of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007. Applicant's representative next checked Applicant's electronic database to see if there was any indication of receipt of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007. Unfortunately, no copy of the purported Office letter dated July 9, 2007 or any other Office communication sent to Applicant after the Issue Fee was paid on May 23, 2007 was in the file.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in

the mailing, there is a strong presumption that the Office action was properly sent to the email address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the email address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]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)).

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the Notice to File Corrected Application Papers with a July 9, 2007 notification date is included with the instant decision as a courtesy to the petitioner.

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

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

By FAX: (571) 273-8300

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

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: July 9, 2007 Notice to File Corrected Application Papers

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.
10/658,902	09/10/2003	Sundararajan Sriram	TI-28564.1	3595

23494 7590 07/09/2007
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER
CASCA, FRED A

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
07/09/2007	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):

uspto@ti.com
uspto@dlemail.itg.ti.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Application No. : 10/658,902
Applicant : Sriram
Filing Date : 9/10/03
Notification Date : 7/9/07

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

Applicant must provide a brief description of FIG. 9 to be inserted immediately following line 13 of page 6 of the specification.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee,Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

Dale G. Olson
Office of Patent Publication
Phone: 703-308-9250 ext. 122

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

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

COPY MAILED

NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of
Sundararajan Sriram
Application No. 10/658,902
Filed: September 10, 2003
Attorney Docket No. TI-28564.1

ON PETITION

This is a decision on the request for reconsideration filed July 17, 2008, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned August 10, 2007 for failure to timely reply to the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 and which set a thirty day period for response. No response having been filed, a Notice of Abandonment was mailed November 6, 2007. While the file record discloses that the Notice to File Corrected Application Papers was sent to what was believed to be the email address of record, petitioner contends that it was not received. A petition filed November 20, 2007 and treated under 37 CFR 1.181 was dismissed in a decision mailed June 10, 2008 because the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, was not met.

Comes now petitioner arguing that they fail to understand what would be accomplished by the PTO requiring Applicant to produce a physical copy of the entire contents of the actual file jacket.

Evidence of non-receipt was not provided with the petition filed November 20, 2007. In accordance with the requirements of 37 CFR 1.181 for proving non-receipt, the decision mailed June 10, 2008 required copies of the "DOCKET RECORDS" not a "physical copy of the entire contents of the actual file jacket" as was indicated in the request for reconsideration.

By definition, a docket is a list. Petitioner is referred to M.P.E.P. 71103(c) for an

By definition, a docket is a list. Petitioner is referred to M.P.E.P. 711.03(c) for an understanding of the showing required for establishing non-receipt of an office communication and what is meant by "Docket".[1]

As was indicated in the decision mailed June 10, 2008, and with the instant request for reconsideration, other than the statements regarding non-receipt, no other corroborating evidence to prove non-receipt has been presented.

In view thereof, the holding of abandonment cannot be withdrawn.

---

[1]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).

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

---

[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Sundararajan Sriram	:	
Application No. 10/658,902	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. TI-28564.1	:	

This is a decision on the request for reconsideration filed November 25, 2008, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned August 10, 2007 for failure to timely reply to the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 and which set a thirty day period for response. No response having been filed, a Notice of Abandonment was mailed November 6, 2007. While the file record discloses that the Notice to File Corrected Application Papers was sent to what was believed to be the email address of record, petitioner contends that it was not received. A petition filed November 20, 2007 and treated under 37 CFR 1.181 was dismissed in a decision mailed June 10, 2008 because the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, was not met. A request for reconsideration filed July 17, 2008 was dismissed in a decision mailed November 7, 2008 because as was indicated in the decision mailed June 10, 2008, the July 17, 2008 still did not provide corroborating evidence to prove non-receipt.

Petitioner submits that the docket record was submitted in a timely manner and includes "ATTACHMENT-5" which is the DOCKET RECORD and "list of the docket for the pending application". Petitioner maintains the argument that therefore. ATTACHMENT 5 is evidence that the requirements of MPEP 711.03(c) have been met.

Petitioner is advised that the document known as ATTACHMENT-5 while a docket record, it is as stated by petitioner a "list of the docket for the pending application".

The requirement however to show non-receipt under Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971) is for the "Master Docket" and not a docket record for the pending application.

Petitioner is again referred to M.P.E.P. 711.03(c) for guidance.[1]

In view thereof, the holding of abandonment cannot be withdrawn.

---

[1]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).

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

---

[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 22 2010

OFFICE OF PETITIONS

In re Application of
Sundararajan Sriram
Application No. 10/658,902
Filed: September 10, 2003
Attorney Docket No. TI-28564.1

ON PETITION

This is a decision on the request for reconsideration filed November 25, 2008, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned August 10, 2007 for failure to timely reply to the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 and which set a thirty day period for response. No response having been filed, a Notice of Abandonment was mailed November 6, 2007. While the file record discloses that the Notice to File Corrected Application Papers was sent to what was believed to be the email address of record, petitioner contends that it was not received. A petition filed November 20, 2007 and treated under 37 CFR 1.181 was dismissed in a decision mailed June 10, 2008 because the requirements under 37 CFR 1.181 were not met. A request for reconsideration filed July 17, 2008 was dismissed in a decision mailed November 7, 2008 because as was indicated in the decision mailed June 10, 2008, the July 17, 2008 still did not provide corroborating evidence to prove non-receipt. A request for reconsideration filed November 25, 2009 was also dismissed in a decision mailed December 23, 2009 because the requirement under 37 CFR 1.181, to submit copies of the actual docket records or file jacket, including the "Master Docket", to show non-receipt had not been met. M.P.E.P. 711.03(c).[1]

---

[1] 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

Comes now petitioner with copies of the "Master Docket" to show that the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 was not received.

In that the statement from the petitioner and the exhibits from the "Master Docket", show no entry indicating receipt of the Notice to File Corrected Application Papers sent via email notification on July 9, 2007, it is apparent that it was not received.

The evidence submitted corroborates non-receipt of the Notice to File Corrected Application Papers.

In view of the facts set forth in the petition, it is concluded that the Notice to File Corrected Application Papers sent via email notification on July 9, 2007 was never received at the e-mail address of record.

---

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).

Accordingly, the Notice of Abandonment is withdrawn and in view of the response to the Notice to File Corrected Application Papers, filed with the July 17, 2008 petition, this matter is being referred to the Office of Patent Publication.

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

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

AUG 15 2006

MILLENIUM PHARMACEUTICALS, INC.
40 LANDSDOWNE STREET
CAMBRIDGE, MA 02139

In re Application of
Kapeller-Liebermann
Serial No. 10/658,904
Filed : September 10, 2003
Attorney Docket No. : MP100-010P1RCP1M

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on June 14, 2006 to withdraw the Finality of the rejection made in the Office communication mailed April 14, 2006.

BACKGROUND

A review of the file history shows that this application was filed under 35 USC 111 and that the Office set forth a restriction requirement under 35 U.S.C. 121, of claims 1-20 in an office action mailed August 1, 2005. The groupings are reproduced below:

> Group I, claims 1-4, 9 and 11, drawn to isolated polynucleotides encoding a human kinase, vectors, kits and host cells comprising said polynucleotides and methods of expressing said polynucleotides.
>
> Group II, claims 5-6, drawn to said human kinase and homologs thereof.
>
> Group III, claims 7-8, 10, drawn to antibodies which bind said kinase and kits comprising said antibodies.
>
> Group IV, claims 12, 13, 15, 16, drawn to a method of identifying agents which bind or modulate the activity of said kinase.

Group V, claim 14, drawn to a method of modulating the activity of said kinase.

Group VI, claims 17, 18, drawn to a method of identifying a subject having a disorder such as cancer utilizing DNA sequences encoding said kinase.

Group VII, claim 19, drawn to a method of identifying a subject having a disorder such as cancer utilizing said kinase.

Group VIII, claim 20, drawn to a method of treatment of a patient having a disorder such as cancer using modulators of said kinase.

The Examiner supported this restriction between the DNA of Group I, the kinase of Group II, the antibodies of Group III as patentably distinct since each product is unrelated since they have different and unrelated chemical structures and functions.

The examiner stated that inventions I and VI are related as product as process of use. In the instant case, the DNA of Group I could have been used for recombinant expression of said kinase which is a method totally different than that of Group VI.

Next, the examiner stated that the DNA of Group I and the antibodies of Group III are each unrelated to any of the methods of Groups IV, V, VI because said products are neither made nor used by any such methods.

The examiner also stated that the antibodies of Group III are unrelated to any of the methods of Groups VI and VIII because said product is neither made nor used by any of said methods.

Further, the examiner stated that inventions II and IV (or V) are related as product and process of use. In the instant case, the polypeptides of Group II may be used in antibody preparation which is a totally different method than those of Groups IV or V.

Also, as was presented by the examiner, the polypeptides of Group II are unrelated to any of the methods of Groups VI, VII and VIII because said products are neither used nor made by any of those methods.

Finally, the examiner stated that the methods of Groups IV-VIII are each patentably distinct from one another since each method has different steps and different end points.

Applicants elected Group II, claims 5-6 without traverse in the response filed on September 1, 2005; added claims 21-34; amended claims 5 and 13; and cancelled claims 1-4, 7-11, 14 and 17-20.

In the non-final Office action mailed October 4, 2005, the examiner acknowledged that claims 5, 6 and 21 were allowable. The examiner stated that this was because the expression products of

SEQ ID NO: 1 and 3 are free of the prior art. Further, the examiner said that the prior art does not teach or suggest preparing such specifically claimed products. Hence, the examiner concluded that said products are also non-obvious. Since said products are allowable, the examiner stated, then a fusion product comprising said products is also allowable.

In Applicant's reply filed February 6, 2006, applicant asked for rejoinder of the withdrawn method claims depending from allowed claim 5.

In the Final rejection mailed on April 14, 2006, the examiner indicated that claims 12, 13, 29-34 would not be rejoined since claims 12, 13, 30-34 are directed to methods of use of said isolated polypeptides as well as those in a whole cell, which means that said polypeptides are not isolated.

The petition to review the finality of the Office action mailed April 14, 2006 was filed on June 14, 2006.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition, Applicants request that the claims of Group IV be rejoined with the claims of Group II or that the rejoinder be reversed and the restriction requirement be reinstated.

Applicants argued that a new restriction requirement was being imposed between a polypeptide inside and outside of the cell. They argued that in the absence of a restriction requirement between polypeptides inside or outside the cell, the rejoinder should have applied to all the claims in the withdrawn group. They concluded that the restriction requirement should not lead to a Final office action and was, therefore, improperly made Final.

Applicants are not correct that the examiner has failed to apply a proper standard for finality in this case. The examiner has correctly established why claims 12, 13, 29-34 were withdrawn from consideration. The reason for withdrawing these claims was correct. **Claims 12, 13, 29-34 are not limited to the allowable product claims**. The examiner correctly continued to hold these claims withdrawn as they clearly encompass polypeptides in a cell which are **not isolated**. Rejoinder of process claims is only applicable if the process claims depend from the allowable product or include all of the claim limitations of the allowed product claims.

For these reasons, claims 5, 6, 21, 27 and 35 remain allowable and claims 12, 13, 29-34 remain withdrawn from further consideration by the examiner since they are not totally limited to the allowable product of claims 5, 6, 21, 27 and 35. Thus, the Final Office action is not withdrawn and stands as is.

DECISION

Applicants petition under 37 CFR 1.181 is **DENIED** for the reasons set forth above.

Claims 5, 6, 21, 27 and 35 remain allowable and claims 12, 13, 29-34 remain withdrawn from further consideration by the examiner since they are not limited to the allowable product of claims 5, 6, 21, 27 and 35.

Applicants remain under obligation to properly reply to the Final Office action mailed April 14, 2006 within the time period set therein or as extended under 1.136 (a).

Should there be any questions regarding this decision, please contact Special Program Examiner Marianne Seidel, 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

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
Duane Morris LLP
One Market
Spear Tower, Suite 2000
San Francisco, CA 94105

COPY MAILED

OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Burbank et al. :
Application No. 10/658,911 :
Filed: September 10, 2003 :
Attorney Docket No. R0367-01601 :

ON PETITION

This is a decision on the petition filed June 21, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that Figures 7 and 8 were part of the originally filed application.

The application was filed on September 10, 2003. On June 2, 2004, a Notice was mailed stating that Figures 7 and 8 described in the specification did not appear to be included as part of the application filed.

The present petition alleges that the missing Figures were deposited on September 10, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 8 sheets of drawings on September 10, 2003.[1] Petitioner has also submitted a copy of the missing documentation- one drawing sheet including Figures 7 and 8.

The USPTO file for this application includes only 7 sheets of drawings and does not include a drawing sheet containing Figures 7 and 8 described in the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is **granted**.

The petition fee of $130 will be credited back to petitioner's deposit account.

The Notice mailed September 10, 2003, was sent in error and is hereby vacated.

The drawings which have been submitted contain a header which includes a title, inventors, and a prior application number. The sheet containing Figures 7 and 8 was sent by facsimile transmission and it contains a date, time, phone number, etc. information as a result. The sheet containing the Figures is also of lesser quality than the other sheets. Petitioner *may* wish to file replacement sheets. *This paper* does not impose a requirement that new drawings sheets be submitted. A copy of the sheet containing Figures 7 and 8, as received by facsimile transmission, is attached.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 10, 2003, using the application papers filed on September 10, 2002, and the copy of drawing sheet six containing Figures 7 and 8 filed on September 7, 2003.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of drawing sheet submitted on September 7, 2003

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/24/08

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/658916 Patent No: 6849699 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: There is inadequate support for the changes for claim 1.
It is ok to delete claim 6-9, and enter the amendment to claim 5.

W4 — SPE

1796 — Art Unit

OIPE JC88
MAR 07 2005
PATENT & TRADEMARK OFFICE

IFW Pet. Dec.

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/658,925
Filing Date	September 10, 2003
First Named Inventor	Karanikos et al.
Art Unit	1723
Examiner Name	Savage, Matthew O.
Attorney Docket Number	7263

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
6/17/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

We have been directed by the client to transfer responsibility to Wolf Greenfield.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[x] The address associated with Customer Number: 23628

OR

[x] Firm or Individual Name	Wolf Greenfield				
Address	600 Atlantic Avenue				
City	Boston	State	MA	Zip	02110
Country	U.S.A.				
Telephone		Fax			

Signature			
Name	Arlene J. Powers	Registration No.	35,985
Date	March 4, 2005	Telephone No.	617-426-9180 x110

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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

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

Mail Date: 05/25/2010

Applicant	: Paul D. Corl	: DECISION ON REQUEST FOR
Patent Number	: 7630747	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/658,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1057** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS SPINELLI
2 SIPALA COURT
EAST NORTHPORT, NY 11731

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Jahangir S. Rastegar et al :
Application No. 10/658,949 : ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. 10002Z :

This is a decision on the petition filed, July 11, 2005 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 1, 2004, which set a shortened statutory period for reply of three (3) months. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 2, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 11, 2005.

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

This matters is being referred to Technology Center AU 3723 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,953	09/10/2003	1614	876	20959/2140 (P 63469)	3	27	2

CONFIRMATION NO. 3518

CORRECTED FILING RECEIPT

OC000000011811435

Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

Date Mailed: 02/02/2004

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

Applicant(s)

Alexander Karl Huwig, Horgen, SWITZERLAND;
Norbert Moszner, Eschen, LIECHTENSTEIN;
Frank Zeuner, Vaduz, LIECHTENSTEIN;
Volker Rheinberger, Vaduz, LIECHTENSTEIN;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 45 212.1 09/27/2002

If Required, Foreign Filing License Granted: 12/02/2003

Projected Publication Date: 04/01/2004

Non-Publication Request: No

Early Publication Request: No

Title

Acid-containing desensitization agents for teeth

Preliminary Class
424

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

GRANTED

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

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

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

NOT GRANTED

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

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

COPY MAILED
OCT 1 2 2006
OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

In re Application of	:	
Varghese John, et al.	:	
Application No. 10/658,959	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. 02-793-C	:	

This is a decision on the petition under 37 CFR 1.313(c)(1), filed October 10, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The application is being forwarded to Technology Center 1625 for consideration of the amendment filed October 10, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

MAILED

MAR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Wybenga, et al.	:	DECISION ON APPLICATION
Application No. 10/658,977	:	FOR
Filed: September 10, 2003	:	PATENT TERM ADJUSTMENT
Docket No. 2003.09.014.BN0	:	

This is a decision on the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed June 9, 2009. Applicants request that the initial determination of patent term adjustment be corrected from eight hundred (800) days to four hundred twenty-one (421) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is SIX HUNDRED TWENTY-FIVE (625) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On March 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 800 days. On June 9, 2009, applicants timely[1] submitted an application for patent term adjustment. Pursuant to applicants' authorization, deposit account no. 50-0208 will be charged the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants' bases for correction of the patent term adjustment have been considered and found persuasive to an extent.

---

[1] The Issue Fee payment was also received on June 9, 2009.

Applicants are correct that the patent term adjustment should be reduced by 175 days because there was no Office delay in connection with the mailing of a Notice of Allowance on March 9, 2009. A request for continued examination was filed on February 2, 2009. On March 9, 2009, the Office mailed a Notice of Allowance. Thus, there was no delay pursuant to 37 CFR 1.702(a)(2). Accordingly, the adjustment of 175 days for Office delay is being removed.

Applicants are incorrect with respect to two other calculations.

First, applicants assert that the Office should have entered a period of adjustment of 249 days, rather than 287 days, for the delay associated with the mailing of a final Office action on September 17, 2007. On August 4, 2006, applicants filed an amendment after final. On September 11, 2006, applicants filed a request for pre-appeal conference and notice of appeal. On December 5, 2006, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review that stated the application was allowable and that a Notice of Allowance would be mailed. In addition, it stated that Claims 1-22 were rejected. On September 17, 2007, the Office mailed a final Office action.

Given the decision by the panel, applicants were properly accorded 287 days for Office delay in mailing a final Office action after the August 4, 2006 amendment. The August 4, 2006 amendment was treated as in compliance with 37 CFR 1.113(c). Pursuant to 37 CFR 1.702(a)(2), the proper calculation is from the day after four months after August 4, 2006, December 5, 2006, to the date the final Office action was mailed, September 17, 2007. Therefore, the 287 day adjustment for Office delay in mailing a final Office action on September 14, 2007 is proper.

Second, applicants assert that the Office should have entered a period of reduction of 166 days for the delay associated with the filing of an amended appeal brief on October 28, 2008. Applicants are reminded that an appeal brief is not a reply to an Office action. The filing of a defective appeal brief is not an omission within the meaning of 37 CFR 1.704(c)(7). Thus, no reduction is warranted.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is **six hundred twenty-**

five (625) days (404 + 287 days for Office delay minus 66 days for applicant delay).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

Day : Wednesday

PALM INTRANET

Date: 3/10/2010
Time: 13:21:19

PTA Calculations for Application: 10/658977			
Application Filing Date:	09/10/2003	PTO Delay (PTO):	866
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	66
Post-Issue Petitions:	0	Total PTA (days):	625
PTO Delay Adjustment:	-175		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	03/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		175	
68	03/09/2009	MAIL NOTICE OF ALLOWANCE	175		44
67	03/03/2009	ISSUE REVISION COMPLETED			
66	03/03/2009	DOCUMENT VERIFICATION			
65	03/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	03/02/2009	NOTICE OF ALLOWABILITY			
63	02/02/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	02/02/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	02/02/2009	REFERENCE CAPTURE ON IDS			
60	02/02/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	02/05/2009	DATE FORWARDED TO EXAMINER			
58	02/02/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	02/05/2009	DATE FORWARDED TO EXAMINER			
56	02/02/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	02/05/2009	DISPOSAL FOR A RCE / CPA / R129			
54	02/04/2009	NOTICE -- DEFECTIVE APPEAL BRIEF			
53	02/02/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	11/13/2008	APPEAL BRIEF REVIEW COMPLETE			
51	11/13/2008	DATE FORWARDED TO EXAMINER			
50.1	10/28/2008	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
50	10/28/2008	APPEAL BRIEF FILED			

49	10/06/2008	NOTICE -- DEFECTIVE APPEAL BRIEF			
48	09/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
47	06/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
46	05/20/2008	APPEAL BRIEF REVIEW COMPLETE			
45	05/20/2008	DATE FORWARDED TO EXAMINER			
44.1	05/15/2008	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
44	05/15/2008	APPEAL BRIEF FILED			
43	04/11/2008	MAIL APPEALS CONF. PROCEED TO BPAI			
42	04/08/2008	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
41	03/11/2008	CASE DOCKETED TO EXAMINER IN GAU			
40	02/21/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
39	02/21/2008	NOTICE OF APPEAL FILED		66	33
38	02/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	01/23/2008	MAIL ADVISORY ACTION (PTOL - 303)			
36	01/22/2008	ADVISORY ACTION (PTOL-303)			
35	12/03/2007	DATE FORWARDED TO EXAMINER			
34	11/16/2007	AMENDMENT AFTER FINAL REJECTION			
33	09/17/2007	MAIL FINAL REJECTION (PTOL - 326)	287		20
32	09/14/2007	FINAL REJECTION			
31	12/05/2006	MAIL APPEALS CONF. PROCEED TO BPAI			
30	12/01/2006	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
26	09/11/2006	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
24	09/11/2006	NOTICE OF APPEAL FILED			
23	08/23/2006	MAIL ADVISORY ACTION (PTOL - 303)			
22	08/21/2006	ADVISORY ACTION (PTOL-303)			
21	08/09/2006	DATE FORWARDED TO EXAMINER			
20	08/04/2006	AMENDMENT AFTER FINAL REJECTION			
19	06/07/2006	MAIL FINAL REJECTION (PTOL - 326)			
18	05/30/2006	FINAL REJECTION			
17	03/22/2006	DATE FORWARDED TO EXAMINER			
16	03/14/2006	RESPONSE AFTER NON-FINAL ACTION			
15	12/19/2005	MAIL NON-FINAL REJECTION	404		-1
14	12/12/2005	NON-FINAL REJECTION			

13	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	11/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	09/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	02/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	01/31/2004	APPLICATION RETURN FROM OIPE			
7	01/31/2004	APPLICATION RETURN TO OIPE			
6	01/31/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/02/2004	APPLICATION IS NOW COMPLETE			
4	01/23/2004	CLEARED BY OIPE CSR			
3	01/23/2004	CASE CLASSIFIED BY OIPE			
2	01/19/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/10/2003	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

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

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

COPY MAILED
OCT 27 2006
OFFICE OF PETITIONS

In re Application of :
David G. Therrien et al :
Application No. 10/658,978 : ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. 25452-014

This is a decision on the petition filed, October 26, 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 September 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fellers, Snider, Blankenship,
Bailey & Tippens
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
Clark E. LUBBERS, et al.
Application No. 10/658,982
Filed: September 10, 2003
For: ADAPTIVE MAPPING

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on July 11, 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. 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 July 11, 2005 fails to meet requirement (E) as set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). In addition, the discussion does not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references. Applicant must bring out the specific feature that defines the claimed invention as set forth in the independent claims in order to properly discuss the same with relevant details from each of the references. Section (E) explicitly mandates that the "discussion points out, with the particularity required by 37 CFE 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Applicant's petition, however, does not distinctly identify the claim component that distinguishes the claimed invention from the reference prior art.

Applicant's petition provided no statement that a pre-examination search was made and no discussions of the references and how the claimed subject matter is patentable over the references.

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

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

Fellers, Snider, Blankenship, Bailey & Tippens, P.C.
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

MAILED

SEP 22 2006

Technology Center 2100

In re Application of: LUBBERS, et al.
Application No. 10/658,982
Filed: September 10, 2003
For: ADAPTIVE MAPPING

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 February 15, 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 July 11, 2005, and dismissed on December 15, 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:

(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 February 15, 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 <u>must</u> present arguments pointing out the specific distinctions believed to render the claims, <u>including any newly presented claims</u>, 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 February 15, 2006, Petitioner 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 **<u>cursory treatment</u>** of each 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 claim(s) to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, **for each independent-claim**, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references" that are "deemed to be most closely related to the subject matter encompassed by the claims." [emphasis added]. Petitioner must provide a detailed discussion of the references, which discussion **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, including where necessary, reference to the figures and/or page and line numbers. Note, for example, a summary of the patent abstract does not point out substantive detail as is required.

The instant application currently contains three independent claims, i.e. 1, 16 and 29 wherein independent claim 29 was added with the amendment filed April 13, 2006. The instant petition fails to address patentable novelty of newly added claim 29. In addition, the discussion of patentable novelty presented in the instant petition with respect to independent claims 1 and 16, i.e. "*fails to disclose a method of maintaining a directory for a data container comprising determining that a sparse directory structure is to be changed;* ***<u>and</u>*** *reconstructing said sparse directory structure into a fully populated directory structure* ... as set forth by claim 1" and "with regard to independent claim 16, ... *fails to disclose a data storage system comprising a data storage container; and a controller that defines a sparse directory structure for said data container, determines that said sparse directory structure is to be changed,* ***<u>and</u>*** *reconstructs said sparse directory structure into a fully populated directory structure*", **is not applicable to claim 29.** Newly presented claim 29 is clearly the broadest claim pending in the instant application with the alternative recitation of "*A data storage system comprising a controller*

configured for selectively constructing ***either a*** *sparse directory structure characterized as a linked list for a data container* ***or*** *a fully populated directory structure characterized as an array for the same data container.*"

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

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

Teresa J. Schultz
Mail Code Q-148
6201 South Freeway
Fort Worth, TX 76134-2099

COPY MAILED
JUL 28 2005
OFFICE OF PETITIONS

In re Application of :
Clark et al. :
Application No. 10/658,986 :
Filed: September 10, 2003 : ON PETITION
Attorney Docket Number: :
1581 US FA :

This is a decision on the Response to Notice of Incomplete Nonprovisional Application Dated December 3, 2003, filed February 9, 2004. The Response is properly treated under 37 CFR 1.53 to accord the application a filing date of September 10, 2003.

The petition is granted.

The application was filed on September 10, 2003. On December 3, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant files the instant correspondence in response to the Notice and provides Fig. 1 and Fig. 2 "as described in the 'Brief Description of the Drawings Section' at pages 3 and 4 of the specification."

A review of the Notice reveals that Applicant was advised that the filing date of the application will be the date of receipt of the drawing Figures, and that any assertions that the items were submitted or are not necessary for a filing date must be by way of petition.

A review of the file reveals that the specification contains method claims (i.e. claims 1-4). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification. (Emphasis supplied).

In this instance, a petition is not necessary to add the drawing figures. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

In view of the above, the Notice mailed December 3, 2003, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, including processing of the Response to Notice of Incomplete Nonprovisional Application Dated December 3, 2003,

with the filing date of September 10, 2003, and an indication that no drawings were required or present on filing.

A refund of the petition fee has been credited to deposit account 01-0682 as authorized in the instant petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,993	09/10/2003	1624	750	20959/2090 (P 62661)		20	1

CONFIRMATION NO. 3705

CORRECTED FILING RECEIPT

OC000000011982626

Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

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)

Norbert Moszner, Eschen, LIECHTENSTEIN;
Armin de Meijere, Gottingen, GERMANY;
Frank Zeuner, Vaduz, LIECHTENSTEIN;
Urs Karl Fischer, Arbon, SWITZERLAND;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 49 324.3 10/22/2002

If Required, Foreign Filing License Granted: 12/01/2003

Projected Publication Date: 04/22/2004

Non-Publication Request: No

Early Publication Request: No

Title

Polymerizable bicyclic cyclopropane derivatives and their use for the preparation of dental materials

Preliminary Class
544

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/30/07

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/658997 Patent No: 7105736B2

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: Changes in claims 54 and 60 don't affect the scope of the claimed invention.

11/28/07

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER
SPE

2837
Art Unit

PTOL-306 (REV. 7/03)

copy

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
DEC 16 2008

Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

In re Application of Hlavac et al. :
Application No. 10/659,007 : Decision on Petition
Filing Date: September 9, 2003 :
Attorney Docket No. INGEENI-3 :

This is a decision on the petition under 37 CFR 1.181 filed July 18, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a non-final Office action on December 31, 2007.

On July 3, 2008, petitioner filed a reply to non-final Office action along with payment for a three-month extension of time. The reply included a certificate of mailing in compliance with 37 CFR 1.8(a). The certificate of mailing is dated June 30, 2008. Therefore, the reply was timely filed.

On an unknown date, the reply filed July 3, 2008, was matched with the file.

On July 10, 2008, the Office mailed a Notice of Abandonment stating the application was abandoned because the Office had not received a reply to the non-final Office action. However, as stated above, the Office had received such a reply. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3714 will be informed of the instant decision and the application, including the papers filed July 3, 2008, 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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

MAILED

JAN 28 2010

OFFICE OF PETITIONS

In re
Lapstun, et al.
Application No. 10/659,013
Filed: September 11, 2003
Patent No. 7,027,177
Issued: April 11, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 16, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490 for the first year maintenance fee is hereby **accepted**.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Roger Mervyn Lloyd Foote et al. :
Application No. 10/659,021 :
Filed: September 11, 2003 :
Attorney Docket No. PAK30US :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on September 26, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on June 25, 2004. By Advisory Action dated August 6, 2004 and March 30, 2005, petitioners were informed that the replies to the Final Office Action, filed July 27, 2004 and Septmber 5, 2004, respectively, did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed April 22, 2005.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

In response to the Final Office Action mailed June 25, 2004, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2853 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

COPY MAILED

SEP 0 6 2006

Director's Office
Office of Patent Publication

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

In re Application of
LAPSTUN, PAUL ,et al
Application No. 10/659,028
Filed: September 11, 2003
Attorney Docket No. IP34US

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment (under 37 CFR § 1.181) received in the United States Patent & Trademark Office (USPTO) on August 25, 2005.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee and publication fee, as required in the Notice of Allowance and Fee(s) Due mailed August 8, 2005.

Petitioner states that the issue fee was paid on time. In support of this assertion Petitioner has submitted a copy of their FedEx Airway Bill, Issue Fee Transmittal and Check.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

MPEP 503 states the following:

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

Unfortunately MPEP 503 is not applicable since there is no record of receipt of the Return Receipt Postcard, which if received in the Office would have been stamped (referred to as "Office Date" stamp) acknowledging receipt of the items identified thereon.

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Unfortunately, correspondence received from foreign countries do not receive the benefits of 37 CFR 1.8.

37 CFR § 1.10 is not applicable since this procedure was not used.

The holding of abandonment cannot be withdrawn as this time.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

File a petition for Revival of Abandoned Application under CFR §1.137 (a) or (b).

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250 EXT 153.

Cheryl Mcleod
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Paul Lapstun, et al. :
Application No. 10/659,028 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. IP34US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 22, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before May 18, 2005. A Notice of Abandonment was mailed on August 8, 2005. On September 22, 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 the $1,400 issue fee and the $300 publication fee; (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

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

SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE, NV 89449

COPY MAILED
APR 1 6 2004
OFFICE OF PETITIONS

In re Application of
Moncrieff, Waldron, Grimes, Gunnerman
Application No. 10/659,046
Filed: September 9, 2003
Attorney Docket No. CFT-011CIA
For: METHOD FOR MANUFACTURING AN EMULSIFIED FUEL

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed March 1, 2004.

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

Any request for reconsideration under 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 respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on September 9, 2003, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on December 1, 2003, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and filing and claim fees. The instant petition and exhibits were filed on March 1, 2004, along with a request for an extension of time within the first month.

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

(1) proof that the non-signing inventor(s) 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,

The instant petition lacks item (1) as set forth above.

As to item (1), the statement as to the alleged refusal of inventor Gunnerman to join the application cannot be accepted because it is offered by a person that does not have first-hand knowledge of the refusal. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

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

The statement relative to inventor Gunnerman's alleged refusal to join application is authored by Mr. Daniel Klaisch, but the refusal was made to Mr. Carlos V. Duno. In order for the statement of Mr. Gunnerman's refusal to be acceptable, the statement must come from Mr. Duno as he was the person that presented the application papers to inventor Gunnerman and to whom the refusal was allegedly made.

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

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

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

Telephone inquiries should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sierra Patent Group, Ltd.
PO Box 6149
Stateline, NV 89449

COPY MAILED
MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of
Moncrieff, Waldron, Grimes, and Gunnerman
Application No.: 10/659,046
Filed: September 9, 2003
Attorney Docket No: CFT-011CIA
For: METHOD FOR MANUFACTURING AN EMULSIFIED FUEL

: DECISION ACCORDING
: RULE 47(a) STATUS

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

The petition is **GRANTED**.

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

The above-cited application was filed on September 9, 2003, with a declaration missing the signature of inventor Gunnerman. On December 1, 2003, a Notice to File Missing Parts of Nonprovisonal Application was mailed requiring a properly executed oath or declaration, a surcharge, and claim and filing fees. The notice set an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on March 1, 2004, and dismissed by a decision mailed April 16, 2004. The instant renewed petition was then filed on May 10, 2004.

Petitioner has shown that inventor Gunnerman has expressly refused accept the application papers for review and had refused to join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rudolph Gunnerman
6601 Windy Hills Way
Reno, NV 89511

COPY MAILED
MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of
Moncrieff, Waldron, Grimes, and Gunnerman :
Application No. 10/659,046 :
Filed: September 9, 2003 : LETTER
Attorney Docket Number: CFT-011CIA :
For: METHOD FOR MANUFACTURING AN EMULSIFIED FUEL

Dear Mr. Gunnerman:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Sierra Patent group, Ltd.
PO Box 6149
Stateline, NV 89449

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

CREATIVE LABS, INC.
LEGAL DEPARTMENT
1901 MCCARTHY BLVD
MILPITAS, CA 95035

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Max Andrew Little	:	
Application No. 10/659,049	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. PQ12931	:	

This is a decision on the petition filed December 19, 2006 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 September 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 16, 2006.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Andreas Blumenthal	: DECISION ON REQUEST FOR
Patent Number	: 7603659	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/659,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **939** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Patent No. 7,139,081	:	DECISION ON REQUEST
Peter De Groot	:	FOR RECONSIDERATION OF
Issue Date: November 21, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/659,060	:	and
Filed: September 9, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 09712-332001	:	CERTIFICATE OF CORRECTION
/Z-433	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 CFR 1.705(d), filed January 19, 2007. Patentee requests that the patent term adjustment on the issued patent be corrected from two hundred thirty-five (235) days to two hundred seventy-eight (278) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred seventy-eight (278)** days.

On November 21, 2006, the application matured into U.S. Patent No. 7,139,081, with a revised patent term adjustment of 235 days. On January 19, 2007, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be corrected to 278 days. Patentee disputes the reduction of 43 days associated with the filing of a miscellaneous incoming letter after the mailing of the notice of allowance. Patentee states that the issue fee payment received on October 10, 2006 was erroneously recorded as a miscellaneous incoming letter.

A review of the application history reveals that in addition to an issue fee payment on October 10, 2006, patentee filed a letter regarding the notice of allowance. Nonetheless, the review reveals that entry of a period of reduction pursuant to 37 CFR 1.704(c)(10),[1] the reduction is not warranted. As stated in MPEP 2732:

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

A review of the letter filed October 10, 2006 reveals that it was a "Comments on Statement for Reasons of Allowance," as provided for in 6 above. Thus, no reduction was warranted.

In view thereof, the patent should have issued with a patent term adjustment of two hundred seventy-eight (278) days.

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

---

[1] 1.704(c)(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 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 SEVENTY-EIGHT (278)** 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

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,139,081 B2

DATED : November 21, 2006

INVENTOR(S) : De Groot

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 (235) days

Delete the phrase "by 235" and insert – by 278 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06042007

DATE : 5-2-07

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction on Patent No.: 7177392 B2 (10/659065

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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER
SPE

2882
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

GREER BURNS & CRAIN
300 SOUTH WACKER DRIVE
25TH FLOOR
CHICAGO, IL 60606

COPY MAILED

DEC 03 2004

OFFICE OF PETITIONS

In re Application of	:	
Brad Calder et al	:	
Application No. 10/659,066	:	NOTICE
Filed: September 9, 2003	:	
Attorney Docket No. 0321.68199	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2122.

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
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

APR 01 2008

OFFICE OF PETITIONS

In re Application of :
Rainer Naeff, et al. :
Application No. 10/659,097 :
Filed: September 10, 2003 :
Attorney Docket No. CCS-202-CON :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/659,097	Applicant(s) NAEFF ET AL.	
	Examiner Gollamudi S. Kishore, Ph.D	Art Unit 1612	

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

THE REPLY FILED 02 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 _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *15-23*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____ .
13. ☐ Other: _____.

/Gollamudi S Kishore, Ph.D/
Primary Examiner, Art Unit 1612

Continuation of 3. NOTE: The amendments made claim 15 require further consideration and an additional search.

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

COPY MAILED

JUL 07 2008

OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of	:	
Rainer Naeff, et al.	:	
Application No. 10/659,097	:	DECISION ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. CCS-202-CON	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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

WK

Mailed: 2-14-06

In re application of	:	
Mitsuo Kawasaki et al.	:	DECISION ON
Serial No. 10/659,119	:	PETITION
Filed: September 10, 2003	:	
For: Magnetic Film and Thin Film Magnetic Head	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed November 3, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the letter dated May 24, 2005 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

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

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

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

10/659,119

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

Jacqueline M. Stone

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

Jasper W. Dockrey
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

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

KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309-3521

COPY MAILED

JUN 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,039,281	:	
Application No. 10/659,139	:	
Filed: September 10, 2003	:	
Issued: May 2, 2006	:	
Attorney Docket No. 13291.105007	:	

This is a decision on the petition filed June 12, 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**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

L Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEAN D.SMALL
THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET, SUITE 1611
ST. LOUIS MO 63101

COPY MAILED

AUG 13 2007

OFFICE OF PETITIONS

In re Application of Igor Katsman et al Application No. 10/659,144 Filed: September 10, 2003 Attorney Docket No. 137992(SPLG 1064)	: : : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of August 4, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition on March 20, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center AU 3768.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

MAR 01 2007

OFFICE OF PETITIONS

In re Patent No. 7,109,473	:	
Grier et al.	:	
Issue Date: September 19, 2006	:	DECISION ON
Application No. 10/659,153	:	REQUEST FOR RECONSIDERATION
Filed: September 10, 2003	:	OF
Atty Docket No. 040563-0167	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed November 20, 2006. Patentees request that a patent term adjustment of two hundred twenty (220) days be issued in favor of applicants.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 19, 2006, the above-identified application matured into U.S. Patent No. 7,109,473. The instant request for reconsideration filed Monday, November 20, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 127 days. The PTA of 220 days was reduced by 93 days pursuant to 37 CFR § 1.704(c)(10) for the submission of a request for refund after the mailing of the notice of allowance.

Patentees agree with the calculation of 220 days of patent term adjustment at the time of the mailing of the notice of allowance. Patentees do not directly speak to the reduction of 93 days associated with the filing of a request for refund. Nonetheless, in effect, patentees dispute this reduction.

The reduction has been considered and found to be proper. It is undisputed that a request for refund was filed after the mailing of the Notice of Allowance. This is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

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

> papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

A request for a refund is clearly stated as a failure to engage. It is undisputed that such a request was filed. In the future, patentees may want to consider filing a request for refund of the type filed, which is timely filed if filed within 2 years, after the issuance of the patent.

In view thereof, it is concluded that the patent properly issued with a revised Patent Term Adjustment of one hundred twenty-seven (127) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Continental Automotives Systems, Inc.
Patents & Licenses
21440 WEST LAKE COOK ROAD
Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: James A. Van Bosch	: DECISION ON REQUEST FOR
Patent Number	: 7596366	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/659,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1607** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey S. Habib, Esq.
Hooker & Habib, P.C. - Suite 304
100 Chestnut Street
Harrisburg, PA 17101

COPY MAILED
MAR 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Kenneth W. Gatten	:	
Application No. 10/659,186	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. I-730	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2006, to revive the above-identified application.

This application became abandoned for failure to respond to the Notice of Allowability mailed July 18, 2005. A Notice of Abandonment was mailed on February 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of three (3) sheets of formal drawings containing Figures 1-8; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office hereby acknowledges receipt of $700 for payment of the issue fee submitted on September 6, 2005.

This application is being referred to the Office of Publications for further review of the drawings filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Elsa Keller
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

COPY MAILED

FEB 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Evans, et al. :
Application No. 10/659,202 :
Filed: September 10, 2003 :
Attorney Docket No. 2003P08454 US :
For: AFCI TEMPERATURE
COMPENSATED CURRENT SENSOR

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed May 4, 2006, which set forth an extendable three month period for reply. No extensions of time being obtained and no reply being filed, this application became abandoned on August 5, 2006. A Notice of Abandonment was mailed on November 15, 2006.

Applicants have submitted a RCE and $810.00 fee and amendment in reply to the May 4, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 4, 2006 final Office action, and the $1,540.00 petition fee.

Regarding the statement of 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, petitioners 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, petitioners 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.

After the mailing of this decision the application will be forwarded to Technology Center AU 2836 for consideration of the RCE and amendment filed on December 17, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

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

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

COPY MAILED

OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Cwirla, et al	:	
Application No. 10/659,207	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. 44368-0003USC1	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman on behalf of all the attorneys of record associated with Customer No. 25213.

All the attorneys of record associated with Customer No. 25213 have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEVEN E. CWIRLA
111 HEDGE ROAD
MENLO PARK, CA 94025

cc: GOODWIN PROCTER LLP
ATTN:PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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 SHEMWELL
SHEMWELL MAHAMEDI, LLP
4880 STEVENS CREEK BLVD
SUITE 201
SAN JOSE, CA 95129

COPY MAILED
APR 2 7 2007 Re-Mail
OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Fjelstad, et al.	:	
Application No. 10/659,210	:	DECISION ON PETITION
Filed: September 9, 2003	:	TO WITHDRAW
Attorney Docket No. SIPI.P108	:	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 12, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Shemwell Mahamedi, LLP has been revoked by the assignee of the patent application on February 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD R. SHEA
6244 ROYAL OAK COURT
SAN JOSE, CA 95123

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Katsuhiko Miya	: DECISION ON REQUEST FOR
Patent Number	: 7584760	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/659,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **684** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

COPY MAILED
FEB 02 2010

In re Application of
James R. Larus, et al.
Application No. 10/659,221
Filed: September 10, 2003
Attorney Docket No. MSI-4497US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 26, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 26, 2009. Accordingly, the date of abandonment of this application is September 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (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 this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
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

A.N. TRAUSCH
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

COPY MAILED

NOV 04 2005

OFFICE OF PETITIONS

In re Application of :
RESING et al. :
Application No. 10/659,224 :
Filed: September 10, 2003 :
Attorney Docket No. 09187-US :

DECISION
ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 27, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 28, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a RCE, a submission that meets the reply requirements of 37 CFR 1.111, and the requisite fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection of August 27, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

The application matter is being forwarded to Technology Center Art Unit 3671.

Frances Hicks
Petitions Examiner
Office of Petitions

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

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Tom Weidner	:	
Application No. 10/659,230	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. P03,0361	:	

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 19, 2006.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The petition lacks item (1).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

In this regard the proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

Since the petition is not accompanied by the required reply, the petition cannot be granted at this time.

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

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

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

COPY MAILED
APR 29 2008
OFFICE OF PETITIONS

In re Application of	:	
Tom Weidner	:	
Application No. 10/659,230	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. P03,0361	:	

This is a decision on the renewed petition, filed February 8, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 19, 2006. A Notice of Abandonment was mailed on August 3, 2007. On August 20, 2007, a petition to revive was filed; however, the petition was dismissed in a decision mailed December 10, 2007. In response, on February 8, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) an adequate 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. 12/028,259 filed February 8, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ORUM & ROTH LLC
53 W. JACKSON BLVD.
SUITE 1616
CHICAGO IL 60604

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of :
Mototsugu Ono :
Application No. 10/659,259 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. 14901 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 15, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 16, 2007. A Notice of Abandonment was mailed March 4, 2008. On February 4, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay[1].

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on February 4, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

The Power of Attorney filed February 4, 2009, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

The application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the amendment received February 4, 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

Enclosed: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/659,259	09/11/2003	Mototsugu Ono	1560-0398P

CONFIRMATION NO. 3537

POA ACCEPTANCE LETTER

61142
ORUM & ROTH LLC
53 W. JACKSON BLVD.
SUITE 1616
CHICAGO, IL 60604

OC000000037435080

Date Mailed: 08/20/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2009.

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.

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Nobuyuki Nakamura

Application No. 10/659,264

Filed: September 11, 2003

Attorney Docket No. 4492-0104P

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 5, 2007.

The petition is **granted**.

This application was held abandoned June 29, 2006, after no reply was received to the non-final Office action mailed March 28, 2006. The notice set forth a shortened statutory period of reply of three months from its mailing date. Extensions of the time set for reply under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on June 29, 2006. A Notice of Abandonment was mailed November 6, 2006. The instant petition was filed on January 5, 2007. Petitioner maintains that the notice of March 28, 2006, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3600, GAU 3682 for further processing that may include remailing of the non-final Office action and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

NOV 01 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Masaya Ogura
Application No. 10/659,300
Filed: September 11, 2003
Attorney Docket No. 03599.000076

This is a decision on the Petition to Withdraw the Holding of Abandonment, filed October 15, 2007 under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on May 29, 2007 for failure to file a timely response to the non-Final Office Action mailed February 26, 2007, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 14, 2007.

Petitioner asserts that a proper response, was filed via facsimile transmission on May 29, 2007. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of facsimile transmission pursuant to 37 CFR 1.8 and was acknowledged by the U.S. Patent and Trademark Office in an Auto-Reply Facsimile Transmission.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 1631 for appropriate action on the amendment filed May 29, 2007, a copy of which was submitted October 15, 2007 with the instant petition.

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

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

Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Nancy Desgardin et al.	:	
Application No. 10/659,306	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. 117136	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record remains unchanged.

The attorneys/agents associated with the firm Oliff & Berridge remain of record.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 31 2007

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:
Birger Sorensen	:
Serial No.: 10/659,324	: PETITION DECISION
Filed: September 11, 2003	:
Attorney Docket No.: 02833.4001LO	:

This is in response to the petition under 37 CFR 1.144, filed October 5, 2006, requesting withdrawal of an improper restriction requirement. The delay in acting upon this decision is regretted.

BACKGROUND

A review of the file history shows that this application was filed on September 11, 2003, under 35 U.S.C. 111. The examiner mailed to applicants on June 3, 2005, a restriction requirement, wherein four distinct inventions (Groups I-IV) were identified and rationale set forth establishing the examiner's position. The claims were restricted as follows:

I. Claims 16-32, drawn to SEQ ID NO: 1, classified in class 424, subclass 208.1.

II. Claims 16-32, drawn to SEQ ID NO: 4, classified in class 424, subclass 208.1.

III. Claims 16-32, drawn to SEQ ID NO: 9, classified in class 424, subclass 208.1.

IV. Claims 16-32, drawn to SEQ ID NO: 15, classified in class 424, subclass 208.1.

An election of species within the elected invention was also required between each of the variants of the sequences set forth in Groups I-IV.

Applicants replied on July 21, 2005, electing Group IV (claims 16-52) with traverse. Applicants did not set forth grounds for the traversal. Claims 16, 20-24 and 27 were amended. Claims 33-52 were newly added.

The examiner mailed to applicants a Notice of an Incomplete Response on September 19, 2005, for failing to elect a species as required.

Applicants replied on October 19, 2005, electing SEQ ID NO: 18 (claims 31-33, 35, 37-45, 47 and 49-52) with traverse. Claims 16, 17, 33, 35, 37-40, 44, 45, 47 and 49 were amended. Claims 34, 36, 46 and 48 were canceled. Applicants argued that each of independent claims 16, 33 and 45 required the use of, or claims per se, "at least one peptide selected from the group consisting of SEQ ID NO: 16, SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19, and SEQ ID NO: 20" and thus were entitled to examination since, according to MPEP § 803.04, "normally ten sequences constitutes a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

The examiner mailed a supplemental restriction requirement to applicants on December 13, 2005, wherein two distinct inventions (Groups I-II) were identified and rationale set forth establishing the examiner's position. The claims were restricted as follows:

I. Claims 16-33, 35 and 37-44 drawn to methods of stimulating the immune system, classified in class 424, subclass 208.1.

II. Claims 45, 47 and 49-52, drawn to peptides, classified in class 530, subclass 350.

An election of species within the elected invention was also required as follows:

A. SEQ ID NO: 1
B. SEQ ID NO: 4
C. SEQ ID NO: 9
D. SEQ ID NO: 15.

Applicants replied on March 13, 2006, electing Group II, wherein the elected species was generic SEQ ID NO: 15 and ultimately SEQ ID NO: 18 (claims 45, 47 and 49-66), with traverse. Claims 53-66 were newly added. Applicants argued that the two groups were closely related and that a proper search of the claims of one groups would likely include a search of the claims of the other group as well. Applicants also continued to argue that each of independent claims 16, 33, 45 and 53 required the use of, or claims per se, "at least one peptide selected from the group consisting of SEQ ID NO: 16, SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19, and SEQ ID NO: 20" and thus were entitled to examination since, according to MPEP § 803.04, "normally ten sequences constitutes a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

The examiner mailed a new Office action on April 11, 2006, acknowledging the election of Group II, wherein the species is generic SEQ ID NO: 15 and specific sequence SEQ ID NO: 18, and the traversal. The examiner maintained the requirement and made it Final on the basis that the groups are directed to products and methods, and the products can be used in a materially different process. Claims 16-33, 35, 37-44 and 62-64 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicants' argument that normally up to ten nucleotide sequences are examined together was not found to be germane since the instant claims involve amino acid sequences. Claims 45, 47, 49-61 and 65-66 were

objected to. Claims 53-61, 65 and 66 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement.

Applicants filed a response to the Non-final Office action on October 5, 2006, along with this petition asking review of the restriction requirement.

DISCUSSION

The petition and case history has been considered carefully. The petition requests that the Office withdraw the restriction requirement between

(1) the product, claims 45, 47, 49-66 and the process of using the product, claims 16-33, 35, 37-44
(2) peptides of SEQ ID Nos 1, 4, 9 and 15
(3) peptides of SEQ ID Nos 16, 17, 18, 19 and 20.

(1) The restriction requirement between product and process

The examiner has restricted between product and process of using the product. In this case, the product is distinct from the process because it can be used for another materially different process, such as immunoassays or affinity purification. Applicant has elected the product for examination and none of the product claims are currently allowable. The following guidance informs applicants of potential opportunities for rejoinder, should all the elected product claims be found allowable.

> The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.
>
> 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 CFR 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 all claims to the elected product are 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 allowable product claim will not be rejoined. See MPEP § 821.04(b). 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 to require 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 MPEP § 804.01

(2) The requirement to elect a single peptide from SEQ ID NO 1, 4, 9 and 15.

It is noted that on December 13, 2005, the examiner mailed to applicants a supplemental restriction requirement wherein the claims were divided into two (2) groups as set forth supra. If applicants were to elect Group II, they were further required to elect one species selected from the group consisting of: SEQ ID NOs: 1, 4, 9 or 15. This requirement was improper. Independent claim 53, as currently pending, requires all of SEQ ID No 1, 4, 9 and requires one of the species encompassed by SEQ ID NO 15. Thus the peptides having SEQ ID No 1, 4, 9 and 15 (as a Markush group of species encompassed by SEQ ID No 15) are claimed together, as a set. The restriction requirement to a single peptide selected from the group consisting of SEQ ID No 1, 4, 9 or 15 may have been proper if the peptides had been claimed in the alternative. Because applicants are claiming peptides having SEQ ID NO 1, 4, 9 and 15 as a set, the requirement to elect one of the set is not proper as this requirement does not correspond to the invention as claimed. Applications claiming only a combination of polypeptide sequences, such as SEQ ID NO 1, 4, 9 and one species of SEQ ID No 15, as set forth in Claim 53, will generally not be subject to a restriction requirement. The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one polypeptide sequence is found to be allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual polypeptide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

(3) The requirement to elect a single peptide from SEQ ID NO 16, 17, 18, 19 and 20.

The product claims require a peptide selected from the group consisting of SEQ ID NO: 16, SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19 and SEQ ID NO: 20. In contrast to the previous section, these peptides are recited in the alternative and not claimed as a set of required members.

As pointed out by applicants on page 3 of the instant petition, SEQ ID NOs: 16-20 are species of generic SEQ ID NO: 15 and read:

> SEQ ID NO: 16
> Lys Phe Ile Ile Pro Xaa Phe Ser Ala Leu Gly Gly Ala Ile Ser Tyr Asp Leu Asn Thr Xaa Leu Asn Cys Ile
>
> SEQ ID NO: 17
> Lys Phe Ile Ile Pro Xaa Phe Ser Ala Leu Ser Gly Gly Gly Ala Ile Ser Tyr Asp Leu Asn Thr Phe Leu Asn Cys Ile Gly
>
> SEQ ID NO: 18
> Arg Phe Ile Ile Pro Xaa Phe Thr Ala Leu Ser Gly Gly Arg Arg Ala Leu Leu Tyr Gly Ala Thr Pro Tyr Ala Ile Gly
>
> SEQ ID NO: 19

Lys Ile Ile Pro Xaa Phe Ser Ala Leu Gly Gly Gly Arg Leu Leu Tyr Gly Ala Thr Pro Tyr Ala Ile Gly

SEQ ID NO: 20
Arg Ile Ile Pro Xaa Phe Thr Ala Leu Ser Gly Gly Gly Arg Leu Leu Tyr Gly Ala Thr Pro Tyr Ala Ile Gly

In the absence of evidence to the contrary, the examiner reasoned that each isolated peptide selected from the group consisting of SEQ ID NO: 16, SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19 and SEQ ID NO: 20 is a structurally distinct chemical compound. The generic peptide, SEQ ID NO 15 is not currently claimed.

The petition counters the Examiner's statement that each of the peptides having SEQ ID Nos 16-20 would have a distinct tertiary structure with the argument that all amino acid and nucleic acid sequences have tertiary structure. This is not persuasive for two reasons. First, an amino acid "sequence" is merely information, text on a page- it is the molecules comprising the sequence which have structure. Second, while applicants are correct that all amino acid and nucleic acid molecules have tertiary structure, the question which this decision needs to address is whether the tertiary structures are distinct from each other. In this instance, absent evidence to the contrary or an admission from applicants that the sequences are obvious one over another, the examiner is correct in asserting that the sequences are distinct from each other in view of their distinct tertiary structures.

Applicants also argue that the requirement for the election of one ultimate species of SEQ ID NO: 15 for examination is contrary to the spirit of MPEP § 803.04 which states that "normally ten sequences constitutes a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." This argument is not persuasive since this section of the MPEP is directed to "nucleotides" and not to polypeptides. Moreover, an OG Notice published March 27, 2007 rescinded the 1996 OG Notice that provided for a partial waiver of the requirements for restriction practice by permitting examination of a reasonable number, up to ten, independent and distinct polynucleotide molecules in a single 35 USC 111(a) or 35 USC 371 application. The Notice indicated that the standard of independence and distinctness would be applied to polynucleotide claims filed in an application under 35 USC 111(a).

Because the instant peptides having SEQ ID NO 16, 17, 18, 19 and 20 are distinct from each other and the examiner has shown that examination of the entire application would cause an serious burden, the instant restriction requirement to elect a single peptide from SEQ ID No 16, 17, 18, 19 and 20 is deemed proper. Currently, no pending claim recites SEQ ID No 15. SEQ ID No 15 encompasses all the species of SEQ ID NO 16, 17, 18, 19 and 20. Should a generic linking claim which recites SEQ ID No 15 and which encompasses all of the SEQ ID Nos 16, 17, 18, 19, and 20 be found allowable, applicant may be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided for by 37 CFR 1.141. See 821.04(a).

DECISION

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

The restriction requirement between the product and process has been maintained.

The restriction requirement between peptides having SEQ ID Nos 1, 4, 9 and 15 has been withdrawn.

The requirement for an election of a single species of peptide from SEQ ID No 16, 17, 18, 19 or 20 has been maintained. Applicant has elected SEQ ID No 18 for examination.

The application will be forwarded to the examiner for consideration of the amendment filed October 5, 2006, and further action consistent with this decision, e.g., examination of SEQ ID No 18 and the combination of peptides having SEQ ID NO 1, 4, 9 and 18.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager 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/pl

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

AUG 0 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,311,915	:	
Issue Date: December 25, 2007	:	
Application No. 10/659,324	:	ON PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 02833.4001LO	:	

This is a decision on the petition filed October 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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 : 12-07

COPY MAILED
DEC 1 0 2007
OFFICE OF PETITIONS

LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215

In re Application of	:	
McElroy	:	
Application No. 10/659,347	:	DECISION
Filed: 11 September, 2003	:	
Attorney Docket No. 23399.00	:	

This is a decision on the petition filed on 17 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 26 January, 2007, with reply due on or before 26 April, 2007;
- the application went abandoned after midnight 26 April, 2007;
- the Office mailed the Notice of Abandonment 9 August, 2007;
- on 17 August, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a request and fee for extension of time and a reply in the form of an amendment were filed on 27 July, 2007, and Petitioner made such showings with copies of documents (including the dates-stamped ("JUL 26 2007") receipt card (see: MPEP '503[1]) and of the

[1] MPEP '503 provides in pertinent part:
'503 Application Number and Filing Receipt

reply and made such statements of Petitioner's own knowledge as set forth in the guidance in the Commentary at MEEP §711.03(c).

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

---

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. '1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant=s name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard Aa complete application@ or Apatent application@ will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing

---

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the

---

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing

> or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 9 August, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (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

---

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAIL

NOV 02 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Masayuki YAMAMOTO
Application No. 10/659,362
Filed: September 11, 2003
For: FAILURE INFORMATION MANAGEMENT METHOD AND MANAGEMENT SERVER IN A NETWORK EQUIPPED WITH A STORAGE DEVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 1, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Shimada
Application No. 10/659,374
Filed: September 11, 2003
For: STORAGE SYSTEM AND A METHOD OF SPEEDING UP WRITING DATA INTO THE STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 03 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

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

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
SUZUKI et al.
Application No. 10/659,398
Filed: September 11, 2003
For: DISK ARRAY APPARATUS AND METHOD FOR CONTROLLING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 12, 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 July 12, 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

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

OCT - 8 2004

SPECKMAN LAW GROUP PLLC
1501 WESTERN AVE
SEATTLE WA 98101

In re Application of	:
Kite et al.	:
Serial No.: 10/659,413	: PETITION TO MAKE SPECIAL
Filed: September 10, 2003	:
Attorney Docket No.: 13317.1001cip	:

This is in response to applicants' petition filed August 31, 2004, 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) will be charged to applicant's Deposit Account No. 19-3555, as directed. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

ROBERT D. FISH; RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA CA 92628-1950

COPY MAILED

APR 14 2004

OFFICE OF PETITIONS

In re Application of :
Ray Won et al. :
Application No. 10/659,450 :
Filed: December 30, 2003 : DECISION ON PETITION
Attorney Docket No. :
100325.0074US2 :
Title: SPLIT-FLOW PROCESS AND :
APPARATUS :

This is a decision on the petition filed December 30, 2003.

On September 9, 2003, the above-identified application was deposited. On December 3, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figure 2 appeared to have been omitted. The Notice set a two-month period for response.

On December 30, 2003, Petitioner submitted a "Petition for Date of this Submission of Items Indicated as Omitted on 'Notice of Omitted Items' as Application Filing Date Nonprovisional Application," along with Figure 2 and payment of the petition fee. Based on the title of the petition, as well as the fact that the petition does not mention any evidence that the missing figure was included on filing, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawing as the filing date.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of**

December 30, 2003, the date of receipt of the formerly omitted item, Figure 2, using the original application papers filed September 9, 2003, and the Figure submitted with the instant petition on December 30, 2003.

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

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

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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

MAILED

APR 14 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Christopher J. Buehler
Application No. 10/659,454
Filed: September 10, 2003
For: **METHOD AND APPARATUS FOR COMPUTERIZED IMAGE BACKGROUND ANALYSIS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 6, 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

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

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

Applicant: Deng et al.
Appl. No.: 10/659,464
Filing Date: September 9, 2003
Title: WAVEGUIDE FORMING METHODS AND WAVEGUIDES FABRICATED THEREFROM
Attorney Docket No.: 134239
Pub. No.: US 2005/0053346 A1
Pub. Date: March 10, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on May 27, 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 error as the wrong application was scanned into the file wrapper.

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 request is dismissed, as an attorney did not sign the paper in compliance with 37 CFR 1.31-1.34 and 37 CFR 10.10. Applicant is reminded that only registered practitioners may practice before the USPTO.

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.

---

[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).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 703-872-9306 or after July 15, 2005, 571-273-8300

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

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

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

MCKEE VOORHEES & SEASE
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

COPY MAILED

NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Welsh et al	:	
Application No. 10/659,467	:	NOTICE
Filed: September 10, 2003	:	
Attorney Docket No. P05405US01	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,498	09/10/2003	1734	880	S004-5099	5	10	1

CONFIRMATION NO. 3633

UPDATED FILING RECEIPT

OC000000011721271

ADAMS & WILKS
31st Floor
50 Broadway
New York, NY 10004

Date Mailed: 01/21/2004

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)

Akihiko Ito, Chiba-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-279012 09/25/2002

If Required, Foreign Filing License Granted: 12/02/2003

Projected Publication Date: 04/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Lable peeling mechanism for continuous label strip, and label printer apparatus using the mechanism

Preliminary Class

156

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

QRRICK HERRINGTON & SUTCLIFFE LLP
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

COPY MAILED

APR 0 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hendrik J. Monkhorst et al :
Application No. 10/659,502 :
Filed: September 9, 2003 :
Attorney Docket No. 703538.4020

This is a decision on the petition, filed March 31, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,504	09/10/2003	2854	880	S004-5102	4	6	1

CONFIRMATION NO. 3600

UPDATED FILING RECEIPT

OC000000011720290

ADAMS & WILKS
31st Floor
50 Broadway
New York, NY 10004

Date Mailed: 01/20/2004

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)

Minoru Hoshino, Chiba-shi, JAPAN;
Yoshinori Sato, Chiba-shi, JAPAN;
Shinichi Yoshida, Chiba-shi, JAPAN;
Masanori Takahashi, Chiba-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-279013 09/25/2002

If Required, Foreign Filing License Granted: 12/01/2003

Projected Publication Date: 04/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Printer apparatus for thermosensible adhering sheet

Preliminary Class

101

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

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,505	09/10/2003	2838	880	S004-5107	4	3	2

CONFIRMATION NO. 3598

CORRECTED FILING RECEIPT

OC000000011755861

ADAMS & WILKS
31st Floor
50 Broadway
New York, NY 10004

Date Mailed: 01/23/2004

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

Applicant(s)

Atsuo Fukui, Residence Not Provided;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-279014 09/25/2002

If Required, Foreign Filing License Granted: 12/01/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Voltage regulator

Preliminary Class

323

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,508	09/10/2003	2632	880	S004-5111	8	7	2

CONFIRMATION NO. 3604

UPDATED FILING RECEIPT

OC000000011720478

ADAMS & WILKS
31st Floor
50 Broadway
New York, NY 10004

Date Mailed: 01/20/2004

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)

Keisuke Tsubata, Chiba-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-291895 10/04/2002

If Required, Foreign Filing License Granted: 12/02/2003

Projected Publication Date: 04/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Pulse wave detecting apparatus and fourier transform process apparatus

Preliminary Class

340

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

HANLEY FLIGHT & ZIMMERMAN LLC
150 S WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

COPY MAILED
APR 09 2008
OFFICE OF PETITIONS

In re Application of Frank Tuccio Application No. 10/659,514 Filed: September 10, 2003 Attorney Docket No. 1016-013P/JAB	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 C.F.R. § 1.47(b), filed March 22, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 C.F.R. § 1.47(b) 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(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 C.F.R. § 1.136(a).

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor or legal representative 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 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor or legal representative; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), the oath or declaration must list the citizenship of the non-signing inventor. The citizenship information for Tuccio is absent from the declaration.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

HANLEY FLIGHT & ZIMMERMAN LLC
150 S WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

COPY MAILED

MAY 27 2008

In re Application of Frank Tuccio Application No. 10/659,514 Filed: September 10, 2003 Attorney Docket No. 1016-013P/JAB	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b) MOOT

This is in response to the renewed petition under 37 C.F.R. § 1.47(b), filed April 23, 2008.

In view of the **joinder** of the inventor, consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office of further consideration under 37 CFR 1.47(b).

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

COPY MAILED
DEC 15 2006
OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of
Moreno, et al.
Application No. 10/659,522
Filed: September 9, 2003
Docket No.: SP02-197

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed November 30, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed February 23, 2006. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 25, 2006.

Petitioners assert that a petition for extension of time and a response to the non-final Office action were timely submitted August 23, 2006.

The original response submitted August 23, 2006 has not been located. However, the copy of the response submitted herewith bears a certificate of mailing date of August 23, 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 1700 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

COPY MAILED

MAR 1 8 2008

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

In re Application of :
Moreno, et al. :
Application No. 10/659,522 : ON PETITION
Filed: September 9, 2003 :
Attorney Docket No. SP02-197 :

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

The petition is GRANTED.

The application became abandoned June 8, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 7, 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. Notice of Abandonment was mailed November 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the required reply in the form of a Request for Continued Examination (including fee and submission); the required petition fee; and a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See, In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, petitioner is entitled to a refund of this fee. A refund has been requested from the Finance Office, Refund Section.

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

This application is being referred to Technology Center AU 1797 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.

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

CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA IL 61629-6490

COPY MAILED

JAN 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Roozenboom, Stephan D.	:	
Application No. 10/659,536	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. 03-248	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 8, 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 Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division.

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

SHARP LABORATORIES OF AMERICA, INC
5750 NW PACIFIC RIM BLVD
CAMAS WA 98642

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	DECISION ON PETITION
Application No. 10/659,547	:	UNDER 37 CFR 1.137(b)
Filed: September 9, 2003	:	
Attorney Docket No. SLA 0746	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2006, to revive the above-identified application.

This application became abandoned for failure to reply properly and timely to the final Office Action mailed on July 22, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on October 23, 2005. A Notice of Abandonment was mailed on March 9, 2006.

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 RCE and an amendment, paid the requisite fees, and made the proper statement of unintentional delay. The petition under 37 CFR 1.137(b) is **granted.**

The Office notes that the Associate Power of Attorney and change of correspondence address filed on October 4, 2005, was placed in the file but was not made of record because the Associate Power of Attorney practice was eliminated. *See Revised Associate Power of Attorney Practice, 69 FR 29865 (May 6, 2004), 1283 Off. Gaz. 148 (Jun. 22, 2004).* Accordingly, there is no indication that an appropriate power of attorney was given to Gerald Maliszewski, the practitioner signing the petition, to prosecute the application. If the Mr. Maliszewski desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and a change of correspondence address must be submitted.

This matter is being referred to Technology Center Art Unit 2822.

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

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

C. 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

JAN 9 2004

MYRON AMER, P.C.
114 OLD COUNTRY ROAD
SUITE 310
MINEOLA, NY 11501

In re Application of	:
Arthur Miller	:
Application No. 29/163,203	: PETITION DECISION
Filed: July 1, 2002	:
Attorney Docket No. P-3455-14	:

This is a decision on the petition received November 7, 2003, which is being treated as a petition under 37 CFR 1.181, invoking supervisory authority to direct the examiner to furnish a written examiner's answer to the appeal brief filed May 2, 2003.

The petition is **Dismissed**.

REVIEW OF THE RECORD

A review of the file reveals that an Office action was mailed on April 17, 2003 rejecting the claim on 2 separate grounds under 35 U.S.C. 112, first paragraph, and making both grounds of rejection final. The first ground of rejection under 35 U.S.C. 112, first paragraph, was based on failing to comply with the written description requirement thereof due to the introduction of new matter, and the second ground of rejection was based on lack of enablement. A notice of appeal was filed on April 30, 2003, followed by the appeal brief on May 2, 2003. A Notification of Non-Compliance with 37 CFR 1.192(c) was mailed on October 28, 2003, setting forth that 1) the brief was defective since the statement under 37 CFR 1.192(c)(6) did not refer to both grounds of rejection under 35 U.S.C. 112, first paragraph, and 2) the argument under 37 CFR 1.192(c)(8) is incomplete and incorrectly contends that the statutory basis for the final rejection is clearly improper. This petition followed.

ISSUES FOR REVIEW

The issues that petitioner requests review of are 1) whether the appeal brief complies with subparagraphs (6) and (8) of 37 CFR 1.192(c), and 2) whether the examiner has improperly responded to the merits of the appeal brief in the Notification of Non-Compliance with 37 CFR 1.192(c).

DECISION

Issue 1
In the appeal brief filed May 2, 2003, under the heading "6. Issue pursuant to 37 CFR 1.192(c)(6)" only a single ground of rejection under 35 U.S.C. 112, paragraph 1, as being non-enabling is identified. The final rejection of the claim under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement thereof due to the introduction of new matter set forth in the Office action mailed April 17, 2003, has not been identified under heading "6". Therefore, the appeal brief does not include a concise statement of all issues presented for review under heading "6".

Under the heading "8. Argument pursuant to 37 CFR 1.192(c)(8)" in the appeal brief filed May 2, 2003 it's stated that "the statutory basis of the FINAL REJECTION is inapplicable to a design patent application and should be overruled." No further explanation is provided as to why appellant considers the statutory basis of the final rejection to be inapplicable. In chapter 1200 of the MPEP, section 1206, under the heading "APPEAL BRIEF CONTENT" the last sentence of paragraph 3 states: "The fact that appellant may consider a ground to be clearly improper does not justify a failure to point out to the Board the reason for that belief." Furthermore, paragraph 2 under the above heading states that "An appeal brief must be responsive to every ground of rejection stated by the examiner." Since the appeal brief does not provide any additional explanation for the contention that the statutory basis for the final rejection is inapplicable, nor any citations of authorities to support such a position, it fails to comply with 37 CFR 1.192(c)(8). In addition, the appeal brief does not point out how the drawings presently of record in the application comply with the written description and enablement requirements of 35 U.S.C. 112, first paragraph, and therefore is not responsive to every ground of rejection stated by the examiner.

The appeal brief does not comply with the requirements of 37 CFR 1.192(c)(6) and (8) and was properly indicated as being defective in the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on October 28, 2003.

Issue 2
The Notification of Non-Compliance with 37 CFR 1.192(c) mailed on October 28, 2003 identifies the defects in the appeal brief under box 9 "Other" by including a separate attachment explaining in detail why the brief fails to comply with 37 CFR 1.192(c)(6) and (8). The detailed explanation does not address the merits of the appeal brief, but rather provides a thorough description of why the arguments under heading "8" are not responsive to every ground of rejection stated by the examiner.

CONCLUSION

1. The petition is **dismissed.**

2. The status of the appeal brief is defective for the reasons set forth in the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on October 28, 2003.

3. Since the time periods set forth in the Notification of Non-Compliance with 37 CFR 1.192(c) have expired petitioner must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) and a request for extension of time to avoid dismissal of the appeal.

4. Any questions with regard to this decision should be directed to John Kittle, by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873.

John Kittle
Director, Technology Center 3700/2900

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.
10/659,581	09/09/2003	William R. Wadleigh	1842.002US1	4658

70648 7590 07/18/2008
SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER
D'AGOSTINO, PAUL ANTHONY

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
07/18/2008	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.

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

SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of: WADLEIGH, WILLIAM R. Serial No. 10/659,581 Filed: Sep. 9, 2003 Docket: 1842.002US1 Title: ELECTRONIC GAME AND SYSTEM HAVING OVERLAYED VIDEO IMAGES	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition to withdraw the holding of abandonment filed on Jun. 16, 2008. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests a withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Final Rejection mailed on Sep. 20, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Apr. 16, 2008.

Petitioner asserts that a timely response to the Final Rejection was timely filed on Mar. 20, 2008 and received by USPTO on Apr. 14, 2008. The petitioner has supplied a copy of the amendment and Request for Continued Examination as well as a copy of an acknowledgement post-card receipt indicating a receipt date of Apr. 14, 2008. There was a petition of three-month extension of time fee paid according to USPTO Palm system. The response also included a certificate of mailing dated Mar. 20, 2008.

As the petitioner has provided convincing evidence that a timely reply to the Final Office action was received on Apr. 16, 2008, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Apr. 16, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3714 for appropriate action.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 7, 2006

TO SPE OF : ART UNIT ~~2000~~ 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,946,069/Appl. 10/659597

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1731
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

Paper No. None

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Application of
Dale C. Kenison et al.
Application No. 10/659,610
Filing Date: September 10, 2003
Attorney Docket Number:
70021220.0092
Title: PELLET IMPLANT SYSTEM FOR IMMEDIATE AND DELAYED RELEASE OF ANTIPARASITIC DRUG

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed August 23, 2006, 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 January 23, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a)

---

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.

were requested. Accordingly, the above-identified application became abandoned on April 24, 2006.

With the present petition, Petitioner's representative has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

Petitioner's representative has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition 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 submitted with the present petition can be processed.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael J. Blake
Eastman Chemical Company
P.O. Box 511
Kingsport TN 37662-5075

COPY MAILED

JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Zima et al.	:	DECISION ON APPLICATION
Application No. 10/659,620	:	FOR
Filed: September 10, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 80005	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed February 11, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred thirty-eight (438) days to four hundred fifty-nine (459) days.

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

On November 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 (PTA) to date is 438 days. On February 11, 2008, applicant timely[1] submitted the instant application for patent term adjustment. Applicant disputes the reduction pursuant to 1.704(c)(7) of 32 days. Applicant requests removal of the 32-day reduction on the ground that the response filed May 22, 2006 was fully responsive and that the notice of non-compliance was issued in error.

Applicants' argument has been considered, but not found persuasive. Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable

[1] PALM records indicate that the Issue Fee payment was received in the Office on February 20, 2008.

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:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

The record has been reviewed and it has been determined that the response filed May 22, 2006 was properly held to be non-responsive. The Office action of April 13, 2006 included two requirements under 35 USC 121 namely to elect a single disclosed species for prosecution on the merits and a listing of all claims readable thereon, including any claims subsequently added.

As stated by the Notice mailed June 2, 2006, applicant did not submit a complete listing of all of the claims with the May 22, 2006 reply. Petitioner contends since no changes were made to any pending claims, a complete reply was not required. Such argument is not well founded, the April 13, 2006 Office action clearly required a listing of *all claims*. As such, the election was properly considered not fully responsive. Thus, the reduction of 32 days for the delay from the filing of the initial response on May 22, 2006, to the filing of the response including a proper election on June 12, 2006, is warranted.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 438 days.

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

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and

for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

enc: PAIR screen for U.S. Application No. 10/659,620

PALM INTRANET

Day : Tuesday
Date: 7/8/2008
Time: 17:59:58

PTA Calculations for Application: 10/659620			
Application Filing Date:	09/10/2003	PTO Delay (PTO):	519
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	81
Post-Issue Petitions:	0	Total PTA (days):	438
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	11/23/2007	MAIL NOTICE OF ALLOWANCE			
67	10/21/2007	ISSUE REVISION COMPLETED			
66	11/21/2007	DOCUMENT VERIFICATION			
65	11/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	11/21/2007	NOTICE OF ALLOWABILITY			
63	09/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	09/18/2007	REFERENCE CAPTURE ON IDS			
61	09/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/16/2007	DATE FORWARDED TO EXAMINER			
59	09/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
58	10/16/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
57	10/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	09/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	09/18/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
54	07/16/2007	FINISHED INITIAL DATA CAPTURE			
53	06/25/2007	EXPORT TO INITIAL DATA CAPTURE			
52	06/22/2007	MAIL NOTICE OF ALLOWANCE			
51	06/22/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
50	06/21/2007	ISSUE REVISION COMPLETED			
49	06/20/2007	DOCUMENT VERIFICATION			
48	06/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

47	06/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	06/15/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	06/20/2007	NOTICE OF ALLOWABILITY			
44	06/20/2007	DATE FORWARDED TO EXAMINER			
43	06/18/2007	AMENDMENT AFTER FINAL REJECTION		28	35
42	06/14/2007	DATE FORWARDED TO EXAMINER			
41	06/11/2007	AMENDMENT AFTER FINAL REJECTION			
40	06/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	05/31/2007	MAIL ADVISORY ACTION (PTOL - 303)			
38	05/29/2007	ADVISORY ACTION (PTOL-303)			
37	05/17/2007	DATE FORWARDED TO EXAMINER			
36	05/15/2007	AMENDMENT AFTER FINAL REJECTION			
35	02/21/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	02/16/2007	FINAL REJECTION			
33	01/13/2007	DATE FORWARDED TO EXAMINER			
32	12/20/2006	RESPONSE AFTER NON-FINAL ACTION		32	30
31	12/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	08/18/2006	MAIL NON-FINAL REJECTION			
29	08/17/2006	NON-FINAL REJECTION			
28	03/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	06/17/2006	DATE FORWARDED TO EXAMINER			
26	06/12/2006	RESPONSE TO ELECTION / RESTRICTION FILED		21	21
25	06/02/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
23	05/22/2006	MISCELLANEOUS INCOMING LETTER			
22	05/31/2006	DATE FORWARDED TO EXAMINER			
21.1	05/22/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	05/22/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
20.7	03/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/13/2004	MISCELLANEOUS INCOMING LETTER			
18	04/13/2006	MAIL RESTRICTION REQUIREMENT	519		-1

17	04/12/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	05/18/2005	MISCELLANEOUS INCOMING LETTER			
14	01/26/2004	REFERENCE CAPTURE ON IDS			
13.7	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	12/03/2003	APPLICATION RETURN FROM OIPE			
9	12/03/2003	APPLICATION RETURN TO OIPE			
8	12/03/2003	APPLICATION IS NOW COMPLETE			
6	12/03/2003	APPLICATION DISPATCHED FROM OIPE			
5	12/03/2003	APPLICATION IS NOW COMPLETE			
4	11/22/2003	CASE CLASSIFIED BY OIPE			
3	11/22/2003	CLEARED BY OIPE CSR			
2	10/29/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/10/2003	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

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

COPY MAILED

JUL 01 2005

OFFICE OF PETITIONS

William David Kiesel
2355 Drusilla Lane
Baton Rouge, LA 70809

In re Application of
Michael B. Lofton
Application No. 10/659,623
Filed: September 10, 2003
Attorney Docket No. 10,276.001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 28, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before January 7, 2005. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the requisite issue fee on April 28, 2005.

This matter is being referred 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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

(Sieberth & Patty, LLC
4703 Bluebonnet Blvd
Baton Rouge, LA 70809)

In re Patent No. (6,866,870) :
Issue Date: (3/15/05) :
Serial No.: (10/659,631) :
Filed: (09/11/03) :
For: (BIOCIDE COMPOSITION AND RELATED METHODS):

This is a decision on the Petition, filed (11/29/05), to Correct Inventorship under 37 CFR 1.324.

The Petition is GRANTED.

The patented file is being forwarded to Certificates of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

(Johann Richter)
SUPERVISORY PRIMARY EXAMINER
ART UNIT (1616)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. (6,866,870) Patented: (03/15/05)

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

Donal F. Day, Baton Rouge, LA (US),
Giovanna A. DeQuerioz, Baton Rouge, LA (US)

(Johann Richter)
SUPERVISORY PRIMARY EXAMINER
ART UNIT (1616)

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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Hope, John	:	
Application No. 10/659,636	:	ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. HOPE-2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 1, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed November 4, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 5, 2005. A Notice of Abandonment was mailed June 15, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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.

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.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2). Petitioner stated in the instant petition that the $750.00 petition fee was enclosed. However, after a review of USPTO financial records and a thorough check of the documents submitted with the instant petition, it appears that the petition fee was not included. Accordingly, the fee must be submitted to revive the above-identified application.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

COPY MAILED

FEB 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Hope, John	:	
Application No. 10/659,636	:	ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. HOPE-2	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 25, 2006, to revive the above-identified application. The Office regrets the delay in acting on the instant petition.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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.

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.[2]

The instant petition still lacks item (2). The petition fee has still not been submitted with the instant petition. $750.00 was charged to Deposit Account No. 19-2814 on January 26, 2006, but was later voided out of the USPTO finance system, as that deposit account is associated with the law firm Snell & Wilmer, L.L.P. Authorization to charge the petition fee to that deposit account

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

[2] See MPEP 711.03(c)(III)(C) and (D).

is not found in the instant petition. Accordingly, petitioner must submit the petition fee to revive in the instant application.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

COPY MAILED

SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Hope, John	:	
Application No. 10/659,636	:	ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. HOPE-2	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 16, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition fee has now been submitted.

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Amey et al. :
Application No. 10/659,644 : ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. PI1220USDIV :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 2, 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 application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which were mailed April 15, 2004. The Notice of Allowance and Issue Fee (s) Due set a three (3) month period for reply. Accordingly, this application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 17, 2004.

Petitioner asserts that the Notice of Allowability mailed April 2, 2004 was never received. In support, petitioner has provided a copy of the docket record where the Notice of Allowance would have been entered had the Notice been received.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office

communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

Petitioner's evidence has been considered but deemed as unpersuasive. A review of the record shows the Notice of Allowance and Fee(s) Due was mailed to the correspondence address of record. The correspondence address of record continues to be the following:

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805.

A review of the petition shows that the address provided on the petition differs from the correspondence address of record. The petition address is listed as follows:

Invista North America S.A. R.L
4417 Lancaster Pike
Legal-Bldg. 722/WR1032
Wilmington, DE 19850.

As such the record is not clear that the Notice of Allowance and Fee(s) due was not received due to a failure to change the correspondence address of record. The address differs enough that it is conceivable that correspondence addressed with the correspondence address of record would not be delivered. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

---

[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).

The Office requires the docket records of E I du Pont De Nemours and Company. To the extent E I du Pont De Nemours and Company and Invista North America S.A. R.L are the same entity and maintain the same docket records a statement and evidence to the effect should be provided.

Petitioner authorized the charging of the issue and publication fees. However, the fees could not be charged because the credit card submitted was expired.

Further it is noted, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137.

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
Petitions Attorney
Office of Petitions

cc: Invista North America S.A. R.L
4417 Lancaster Pike
Legal-Bldg. 722/WR1032
Wilmington, DE 19850

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

INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON, DE 19808

COPY MAILED

SEP 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Amey et al.	:	
Application No. 10/659,644	:	ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. PI1220USDIV	:	

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

The petition to withdraw the holding of abandonment is **Dismissed**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which were mailed April 15, 2004. The Notice of Allowance and Issue Fee (s) Due set a three (3) month period for reply. Accordingly, this application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 17, 2004.

Petitioner asserts that the Notice of Allowability mailed April 2, 2004 was never received. In support, petitioner has provided a copy of the docket record where the Notice of Allowance would have been entered had the Notice been received. Petitioner contends on renewed petition Invista advised the USPTO of a change of address and change in power of attorney. Petitioner contends the USPTO did not enter the change in the above-identified application, although it was entered in parent application 09/628,993 now patent 6,677,484. Petitioner states this divisional application relies on the parent application for its assignment.

A review of the record shows a power of attorney and change of correspondence address has not been located for the above-identified application. Any change of

correspondence address or power of attorney entered in the parent will not of a matter of course be applied to the child. Further petitioner contends the change of address and power of attorney documents were submitted on September 21, 2005, well after the Notice of Allowance and Fees Due were mailed. The Notice of Allowance mailed on April 15, 2004 was properly addressed to E.I. Du Pont De Nemours and Company.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

Petitioner may wish to file a petition under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-14-08

TO SPE OF : ART UNIT 2411

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/659646 Patent No.: 7415486

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

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: _____

/Nathan J. Flynn/

Nathan J. Flynn SPE 2454
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL L. GIRDWOOD
695 KENMOORE, SE
P O BOX 2567
GRAND RAPIDS, MI 49501-2567

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of	:
Douglas C. Ball et al	:DECISION ON PETITION
Application No. 10/659,662	:UNDER 37 CFR 1.78(a)(6)
Filed: September 10, 2003	:
Attorney Docket No. STE01 P-1045B	:

This is a decision on the petition treated under 37 CFR 1.78(a)(6) filed December 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/139,599, filed June 17, 1999, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1. 78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 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 prior-filed provisional application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) 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)(5)(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)(6).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed provisional application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370 surcharge 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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Publishing Division.

Frances Hicks

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

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:			
	Koo et al		
Patent No.:	7,133,689	Our File:	I-2-0408.1US
Issued:	November 7, 2006	Date:	May 14, 2008
Appln. No.:	10/659,673		
Filed:	September 10, 2003		
For: METHOD AND SYSTEM FOR ADJUSTING DOWNLINK OUTER LOOP POWER TO CONTROL TARGET SIR			

OK TO ENTER: /TT/

08/28/2008

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction under 35 U.S.C. §§ 254, 255 and 37 C.F.R. §§1.322, 1.323 is requested for U.S. Patent No. 7,133,689. Correction of the following errors is requested.

ON THE FACE PAGE

At section (75), Inventors, page 1, left column, line 3, after "**Chang-Soo Koo,**", delete East Northport, NY (US) and insert therefor --Melville, NY, (US)--.

IN THE SPECIFICATION

At column 5, line 50, after the words "adjustment is", insert therefor--to--.

At column 5, line 54, after the words "reselection is", insert therefor--to--.

At column 5, line 55, after the words "up size is", insert therefor--to--.

At column 6, line 44, after "(step-size)–", delete "((step down))" and insert therefor --(step down)--.

At column 6, line 46, before "*(N_b–N_e).", delete "((step down))" and insert therefor --(step down)--.

At column 7, line 6, after "(step up)*, delete "(N_e))–" and insert therefor --(N_e)–--

At column 7, delete line 15, and insert therefor --target SIR = target SIR + step_up*N_e–step_down*(N_b-N_e)--.

REMARKS

Patentees believe that the above errors are of such a nature as to justify the issuance of a Certificate of Correction. Patentees have enclosed a completed Certificate of Correction Form PTO/SB/44.

Since at least one of the errors was caused by Applicants, please charge the surcharge fee of $100.00 to the Deposit Account of InterDigital Communications Corporation, Deposit Account No. 09-0435.

Patentees respectfully request that the Certificate of Correction be issued.

Respectfully submitted,

Koo et al.

By_____

Robert D. Leonard
Registration No. 57,204
(215) 568-6400

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

RDL/dcb

PTO/SB/44 (04-05)
Approved for use through 04/30/2007.
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,133,689

APPLICATION NO.: 10/659,673

ISSUE DATE : November 7, 2006

INVENTOR(S) : Koo 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:

ON THE FACE PAGE

At section (75), Inventors, page 1, left column, line 3, after "**Chang-Soo Koo,**", delete East Northport, NY (US) and insert therefor --Melville, NY, (US)--.

IN THE SPECIFICATION

At column 5, line 50, after the words "adjustment is", insert therefor--to--.

At column 5, line 54, after the words "reselection is", insert therefor--to--.

At column 5, line 55, after the words "up size is", insert therefor--to--.

At column 6, line 44, after "(step-size)–", delete "((step down))" and insert therefor --(step down)--.

At column 6, line 46, before "*(N_b–N_e).", delete "((step down))" and insert therefor --(step down)--.

At column 7, line 6, after "(step up)*, delete "(N_e))–" and insert therefor --(N_e)–--

At column 7, delete line 15, and insert therefor --target SIR = target SIR + step_up*N_e–step_down*(N_b-N_e)--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-23-08

TO SPE OF : ART UNIT 2618 pat 7133689 app # 10/659673

SUBJECT : Request for Certificate of Correction on Patent No.: 7133689/10/659673

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.

Director's Office to be changed

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

ok to enter

/Matthew Anderson/ — SPE

2618 — 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

Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

COPY MAILED
DEC 19 2008

In re Application of	:	
Christensen, et al.	:	
Application No. 10/659,704	:	NOTICE
Filed: September 11, 2003	:	
Attorney Docket No. 67559/00021	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 24, 2008.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

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

Paper No.

ELAN DRUG DELIVERY, INC. C/O FOLEY & LARDNER
3000 K STREET, N.W.
SUITE 500
WASHINGTON DC 20007-5109

MAILED

APR 02 2010

OFFICE OF PETITIONS

In re Application of	:	
McGurk et al.	:	
Application No. 10/659,706	:	ON APPLICATION FOR
Filed: September 11, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
029318-0968	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed on December 28, 2009, which is treated as an application for patent term adjustment filed under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 578 days, not 238 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

---

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER, MA 01944

COPY MAILED

FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Richard E. Forkey et al :
Application No. 10/659,727 :
Filed: September 10, 2003 :
Attorney Docket No. P25-003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed February 8, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 27, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

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

NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:
Antoni Kozlowski	:
Application No. 10/659,734	: DECISION GRANTING PETITION
Filed: September 9, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6800-0073/STE	:

This is a decision on the petition, filed May 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 April 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 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\659734.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED

APR 0 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mitsuru Umekida :
Application No. 10/659,742 :
Filed: September 11, 2003 :
Attorney Docket No. 100725-00102 :

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

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

The examiner of Technology Center AU 3682 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 : April 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mitsuru Umekida
Application No. :10/659,742
Filed :September 11, 2003

The above-identified application has been assigned Patent No. 6,877,905 and an issue date of April 12, 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 April 12, 2005:

"All reference to Patent No. 6,877,905 to Mitsuru Umekida of Japan for WHEEL BEARING DEVICE appearing in the Official Gazette of April 12, 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

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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

COPY MAILED

MAY 06 2005

OFFICE OF PETITIONS

In re Application of :
Mitsuru Umekida :
Application No. 10/659,742 : DECISION GRANTING PETITION
Filed: September 11, 2003 : UNDER 37 CFR 1.181
Attorney Docket No. 100725-00102 :

This is in reply to the communication received May 5, 2005, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of an Information Disclosure Statement as the submission required by 37 CFR 1.114.

The petition under 37 CFR 1.181 is granted.

A review of the file record discloses that a petition to withdraw from issue and a Request for Continued Examination were received on April 8, 2005. The petition and Request for Continued Examination (RCE) both indicate that the submission is the filing of an Information Disclosure Statement, which appears to now be missing from the previously filed documents. As a result thereof, a Notice of Improper Request for Continued Examination (RCE) was mailed on April 29, 2005.

In view of the resubmission of the Information Disclosure Statement, the submission requirement of 37 CFR 1.114 has now been satisfied. Accordingly, this matter is being referred to Technology Center AU 3682 for appropriate processing of the RCE filed April 8, 2005 and for consideration of the Information Disclosure Statement submitted herewith.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(571) 272-3218

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

NOV 17 2006

MARTIN D. MOYNIHAN
PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of	:
Alexander Levitzki et al	:
Serial No.: 10/659,747	: PETITION DECISION
Filed: September 11, 2003	:
Attorney Docket No.: 26682	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 25, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

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

The petition is **GRANTED**.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

MAILED

FEB 19 2009

OFFICE OF PETITIONS

In re Application of	:	
WOO, Min-Hwan et al.	:	
Application No. 10/659,750	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. **031073**	:	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 30, 2008.

The request is **APPROVED**.

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

The request was signed by Nicholas Bromer on behalf of all attorneys of record who are associated with customer No. 23850. 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 Min-Hwan Woo at the address indicated below.

There are no outstanding office actions at time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MIN-HWAN WOO**
102-1006, MAEHO HYEOPHWA 2-CHA APT. 1055
MAEHO-DONG
SUSEONG-GU, DAEGU
KOREA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/16/07

Paper No.: —

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/659757 Patent No: 7230896B2

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 proposed change is to add documents from an IDS. However, the IDS was not considered by the examiner prior to issue. Hence, the proposed changes in the Certificate of Correction are not directed to correction of errors in the printing of the Patent resulting from prosecution.

/Wayne Young/ — **SPE**

2627 — **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

January 14, 2010

Brian E. Hennessey
Katten Muchin Rosenman LLP
575 Madison Avenue, 15th Floor
New York, NY 10022-2585

Patent No: 7,230,896 B2
Application No: 10/659,751
Applicant: Toshikazu Kobayashi, et al.
Issued: June 12, 2007
Title: **OPTICAL DISK REPRODUCING DEVICE AND OPTICAL DISK REPRODUCING METHOD**

Request for Certificate of Correction:

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

Respecting the alleged error on the title page item 56, per the examiner "the proposed change is to add documents from an IDS. However, the IDS was not considered by the examiner prior to issue. Hence, the proposed changes in the Certificate of Correction are not directed to correction of errors in the printing of the patent resulting from prosecution".

In view of the foregoing your request in these matters is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

COPY MAILED
NOV 24 2008

In re Application of	:	
Richard A. DIXON et al.	:	
Application No. 10/659,755	:	DECISION ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. NBLE:007US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 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)(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 July 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 $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of April 21, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on October 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1638 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petition

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

Lucash Gesmer and Updegrove LLP
40 Broad Street, 3rd Floor
Boston, MA 02109

COPY MAILED

JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Bruce W. Warila et al.	:	
Application No. 10/659,762	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. 2008311-0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 4, 2007.

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

A review of the file record indicates that the power of attorney to Lucash Gesmer and Updegrove LLP has been revoked by the assignee of the patent application on December 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Choate, Hall, & Stewart LLP**
Two International Place
Boston, MA 02110

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

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Ge Zhu	:	
Application No. 10/659,772	:	
Filing/371(c) Date: 09/09/2003	:	
Attorney Docket Number:	:	
HYM-003	:	ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed June 28, 2006 and re-filed July 3, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due (Notice), mailed November 1, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on February 2, 2006. A Notice of Abandonment was mailed April 14, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply in the form of the issue fee and publication fee was filed on February 1, 2006. In support of this assertion, Applicant files a copy of the Issue Fee Transmittal Form which includes a Certificate of Mailing dated February 1, 2006, executed by Petitioner herein. Applicant has re-filed the issue fee with the instant petition(s)[1].

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

[1] Applicant is advised that with each repeat filing the fees authorized will be charged. Applicant should file a request for a refund with the Office of Finance, Refund Section.

No petition fee has been charged and none is due.

The application will be referred to Publishing Division for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,780	08/27/2003	3747	1048	F-7925	5	8	5

CONFIRMATION NO. 5609

CORRECTED FILING RECEIPT

OC000000013366766

000028107
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

Date Mailed: 07/28/2004

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

Applicant(s)

Hideaki Todoroki, Minamitsuru-gun, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-291702 08/28/2002

If Required, Foreign Filing License Granted: 11/21/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ignition device for improving ignition spark intensity for a plug cord for an internal combustion engine and direct ignition system for an internal combustion engine, and method for connecting the same

Preliminary Class

123

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

MELVIN K. SILVERMAN
500 WEST CYPRESS CREEK ROAD
SUITE 500
FT. LAUDERDALE FL 33309

COPY MAILED

DEC 23 2005

OFFICE OF PETITIONS

In re Application of
Lakdas Nanayakkara
Application No. 10/659,781
Filed: September 8, 2003
Attorney Docket No.: 1070.16.2

ON PETITION

This is a decision on the petition filed December 7, 2005 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 January 12, 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 April 13, 2005. Accordingly, a Notice of Abandonment was mailed August 9, 2005.

The petition fee in the amount of $750.00 has been charged to deposit account no. 50-2557.

This matter is being referred to Technology Center 3635 for appropriate action on the amendment filed December 7, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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

JUL 28 2004

DCM

In re Application of	:	
Gerhardt Woodrow Van Drie	:	
Serial Number: 10/659798	:	PETITION UNDER
Filed: September 10, 2003	:	M.P.E.P.708.02 IV
For: GRAVITY POWERED MIXER SYSTEMS	:	

This is in response to the petition filed September 10, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

GENE SCOTT
PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA CA 92626-3440

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,801	09/10/2003	1644	894	PU3680US3	3	28	1

CONFIRMATION NO. 5240

CORRECTED FILING RECEIPT

OC000000012799999

23347
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

Date Mailed: 06/01/2004

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)

Susan Chubinskaya, Vernon Hills, IL;
Jeff Hutchins, Chapel Hill, NC;
Juergen Mollenhauer, Eisenberg, GERMANY;
Francis X. Tavares, Durham, NC;
Stephen A. Thomson, Durham, NC;
Jennings F. Worley, Durham, NC;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/745,989 12/21/2000 PAT 6,649,366
which claims benefit of 60/173,692 12/29/1999

Foreign Applications

If Required, Foreign Filing License Granted: 12/05/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and compositions related to modulators of annexin and cartilage homeostasis

Preliminary Class

435

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

GRANTED

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

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

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

NOT GRANTED

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

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

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

COPY MAILED

MAY 20 2008

OFFICE OF PETITIONS

In re Application of :
HACHIKIAN, ZAKAR RAFFI :
Application No. 10/659,805 :
Filed: 09/11/2003 :
Attorney Docket No. ITW 0006 :
IA/41038.9/14350 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 16, 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). Petitioner obtained an extension of time for response within the third month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is April 17, 2008. A Notice of Abandonment was mailed on April 25, 2008.

In response to the final Office action, petitioner filed an amendment and a request for an extension of time for response within the third month (and fee) on April 16, 2008. The Examiner reviewed the amendment of April 16, 2008, and determined that the amendment did not place the application in condition for allowance, as stated in the Advisory Action of April 24, 2008. On May, 2008, petitioner submitted the present petition, a request for continued examination (RCE), and the requisite fees.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (and fee) and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2007

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction for Appl. No. 10/659806 patent no.7056874

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: _____

Douglas McGinty — **SPE**

1751 — **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

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

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Seung Cheol Lee et al	:	
Application No. 10/659,814	:	
Filed: September 11, 2003	:	
Attorney Docket No. 29936/39462	:	

This is a decision on the petition, filed March 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2823 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

COPY MAILED
AUG 3 1 2004
OFFICE OF PETITIONS

EXXONMOBIL UPSTREAM RESEARCH COMPANY
P.O. BOX 2189
HOUSTON, TX 77252-2189

In re Application of :
lloyd G. Jones : DECISION ON PETITIONS
Application No. 10/659,818 : UNDER 37 CFR 1.78(a)(3)
Filed: September 11, 2003 :
Attorney Docket No. DR 99.05/2 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed April 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of a prior-filed nonprovisional application.

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

The instant 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 required reference to the prior-filed application has not been submitted.[1] As such, the petition must be dismissed.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and a proper submission that contains the required reference is required.

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

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

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

Brian Hearn, for

Charles A. Pearson
Director
Office of Petitions

---

[1] Please note 37 CFR 1.121. It is improper to include the priority claim in the petition, but, rather it must be contained in an amendment to the 1st line of the specification, or be included in an ADS in accordance with 37 CFR 1.76(b)(5).

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

EXXONMOBIL UPSTREAM RESEARCH COMPANY
P.O. BOX 2189
HOUSTON, TX 77252-2189

COPY MAILED

NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Lloyd G. Jones	: DECISION ON PETITION
Application No. 10/659,818	: UNDER 37 CFR 1.78(a)(3)
Filed: September 11, 2003	:
Attorney Docket No. DR 99.05/2	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on September 11, 2003, and was pending at the time of filing of the instant petition. 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 required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for 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 3600 for appropriate action on the amendment filed September 10, 2004, 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.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 20 2006

OFFICE OF PETITIONS

EXXONMOBIL UPSTREAM RESEARCH COMPANY
P.O. BOX 2189
HOUSTON, TX 77252-2189

In re Application of :
Lloyd G. Jones :
Application No. 10/659,818 : ON PETITION
Filed: March 28, 2006 :
Attorney Docket No. DR 99.05/2

This is a decision on the petition filed, March 17, 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 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

MONTE & MCGRAW, PC
4092 SKIPPACK PIKE
P.O. BOX 650
SKIPPACK PA 19474

COPY MAILED
SEP 12 2006
OFFICE OF PETITIONS

In re Patent of	:	
Schon, et al.	:	
Patent No. 7,018,374	:	
Issue Date: March 28, 2006	:	Decision on Petition
Application No. 10/659,824	:	
Filing Date: September 11, 2003	:	
Attorney Docket No. MED-0005C1	:	

This is a decision on the petition under 37 CFR 1.183, filed April 4, 2006 (certificate of mailing date March 30, 2006), to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

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

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.

Pursuant to petitioners' authorization, deposit account no. 50-2434 will be charged the required $100.00 certificate of correction fee.

Petitioners have met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

Shirene Willis Brantley

Shirene Willis 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

APR 29 2005

ROBERT W. BECKER & ASSOCIATES
SUITE B
707 HIGHWAY 66 EAST
TIJERAS NM 87059

In re Application of	:
John Greeson et al	:
Serial No.: 10/659,840	: PETITION TO MAKE SPECIAL
Filed: September 11, 2003	:
Attorney Docket No.: 2166.007	:

This is in response to the petition filed April 6, 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, relating to actual or potential infringement. 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

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

AUG -8 2006

VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS MI 49588-8695

In re Application of AZZAR, JIM Serial No.: 10/659,861 Filed: September 11, 2003 Docket: HOL01 P-102 Title: FOOD TRAY LINER	DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE UNDER 37 CFR 1.181

This is a decision on the petition filed on May 30, 2006 by which petitioners request supervisory review and withdrawal of the finality of the Office Action dated April 5, 2006. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is GRANTED.

The record shows:

On September 11, 2003 the applicant filed the current application with original claims. On October 19, 2005 the examiner issued a first Office Action which rejected the claims under, *inter alia*, 35 U.S.C. 102 and 35 U.S.C. 103 in light of the prior art Columbo. On January 19, 2006 the applicant filed an amendment, amending Claims 3, 18, 22, and 24. On April 5, 2006 the examiner issued a final Office Action which rejected the claims under 35 U.S.C. 102 and 35 U.S.C. 103 in light of the prior art Walker. The examiner stated, "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL."

On May 30, 2006 the applicant submitted the current petition requesting a withdrawal of the finality of the previous Office Action. The petitioner is of the opinion that the finality of the Office Action was premature. In particular, the applicant alleges that the April 5, 2006 Office Action should not have been final since "Claim 3 was merely rewritten in independent form". Therefore, the amendment to Claim 3 did not necessitate the new grounds of rejection; instead, Applicant argued that the prior rejection, which was based on U.S. Patent No. 5,266,763 to Colombo, was without merit. Therefore, Applicant's amendment to Claim 3 did not necessitate the new grounds of rejection."

Analysis of Application Record

MPEP 706.07(a) states in relevant part: "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)." (*Emphasis added*).

The issue presented in the current petition is whether the new Claim 3 changed the scope of the original claim 3 and necessitated a final rejection.

In order to determine whether or not the original Claim 3 and the new Claim 3 are equivalent, a comparison of the claims must be made. Claim 3 rewritten as an independent claim must necessarily combine the original Claims 1 and 3 without changing the scope of the claim. The original Claims 1 and 3 which were filed on September 11, 2003 are reproduced below.

1. A food tray assembly comprising:
a tray, said tray having a base wall and sidewalls extending up from said base wall to form a cavity, said base wall having an inner surface, and said sidewalls having inner surfaces; and
a preformed flexible liner, said preformed flexible liner configured and arranged to substantially conform to said inner surfaces of said base wall and said sidewalls to form a liquid containing bowl in said cavity for holding food and liquid therein.
3. The food tray assembly according to Claim 1, wherein said liner comprises a preformed flexible paper liner.

The amended Claim 3 which was filed on January 19, 2006 is also reproduced below.

3. A food tray assembly comprising:
a tray, said tray having a base wall and sidewalls extending up from said base wall to form a cavity, said base wall having an inner surface, and said sidewalls having inner surfaces; and
a preformed flexible paper liner, said preformed flexible paper liner configured and arranged to substantially conform to said inner surfaces of said base wall and said sidewalls to form a liquid containing bowl in said cavity for holding food and liquid therein.

The new Claim 3 is identical to the original Claim 1, except "a preformed flexible liner, said preformed flexible liner . . ." has been changed to "a preformed flexible *paper* liner, said preformed flexible *paper* liner . . ." (*Emphasis added*). However, the addition of "paper" to the claim is consistent with the original dependent Claim 3, "wherein said liner comprises a preformed flexible paper liner." Therefore, the new Claim 3 does not change the scope of the original Claim 3.

Accordingly, the amendment to Claim 3 did not necessitate the new grounds of rejection. The introduction of the new reference with a final rejection was improper. The finality of the Office Action of April 5, 2006 is, therefore, vacated.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3727 who will have the examiner to withdraw the finality of the Office Action of April 5, 2006 and promulgate an Office action not inconsistent with this Decision.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 1 2 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sarah E. Zeller et al :
Application No. 10/659,866 :
Filed: September 10, 2003 :
Attorney Docket No. 200209040-1 :

This is a decision on the petition, filed April 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2854 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[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

COPY MAILED

AUG 18 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,434,048
Issued: October 7, 2008
Application No. 10/659,874
Filed: September 9, 2003
Dkt. No.: 07844-609001

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed November 24, 2008.

Patentee requests that the determination of patent term adjustment be corrected from 812 days to 1,015 days.

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

The application matured into U.S. Patent No. 7,434,048 on October 7, 2008 with a revised patent term adjustment of 812 days. The application was filed September 9, 2003. A request for continued examination was filed August 13, 2007. The Office determined that the 338 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 804 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on August 13, 2007, the application was pending three years and 338 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 804 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 121 days and the overall adjustment of 933 days, the patent issued with a revised patent term adjustment of 812 days (933 days less 121 days).

On November 24, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,015 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1,136 days (933 days + 203 days) as these periods do not occur on the same day. Further, given the applicant delay of 121 days, patentee asserts entitlement to 1,015 (1,136 – 121 days) of patent term adjustment.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).
35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as

---

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was mailed January 22, 2007, fourteen months and 804 days after the application filing date, September 9, 2003.

[5] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), September 9, 2003, and ending on the date of filing of a request for continued examination (RCE), August 13, 2007 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 804 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. In accordance with 37 CFR 1.702(a)(4), an Office delay of 129 days accrued subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 338 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 338 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 804 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 804 days and the 338 days is neither permitted nor warranted given that 804 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 812 days of patent term adjustment, having considered the 338 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 812 days.

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

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

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
DIW May-07

COPY MAILED

MAY 03 2007

OFFICE OF PETITIONS

BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

In re Application of :
Verdun et al. :
Application No. 10/659,880 : DECISION ON PETITION
Filed: 11 September, 2003 :
Attorney Docket No. 016295.1421 :
(DC-05148) :

This is a decision on the "Non-Fee Petition Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment and Re-Mail Office Action," filed 19 February, 2007.

The petition is **GRANTED**.

On 28 June, 2006, a non-final Office action was mailed, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 29 September, 2006. Notice of Abandonment was mailed on 25 January, 2007.

In the petition, applicants assert that the practitioner did not receive the non-final Office action. Specifically, the practitioner asserts that the Office action was returned to the USPTO as undeliverable.

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

that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

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

In support of the petition, the petitioner has submitted a statement by registered practitioner Eric M. Grabski attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's file jacket and docket record is supplied with the petition.

A review of the record indicates that the USPTO mailed the nonfinal Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on 13 July, 2006. For this reason, the practitioner did not receive the nonfinal Office action of 28 June, 2006.

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

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2100 technical support staff for remailing of the non-final Office action mailed on 28 July, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

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

August 2005

COUDERT BROTHERS LLP
333 SOUTH HOPE STREET
23RD FLOOR
LOS ANGELES, CA 90071

SEP - 8 2005

In re Application of: YOEL WAZANA ET AL. Serial No.: 10/659,881 Filed: 11 September 2003 Docket: 21101-0006 Title: APPARATUS AND METHOD FOR DISSAMBLING CONTAINERS HAVING THERMOPLASTIC JOINING SURFACES	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on June 25, 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 **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention, and an intent to elect without traverse should election be required; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a 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 (non-US) 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) – (e) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as

special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

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.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Flexman et al.	:	
Application No. 10/659,888	:	DECISION
Filed: September 11, 2003	:	ON PETITION
Attorney Docket Number:	:	
AD6937 US NA	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.[1]81", filed June 23, 2006.

The petition is **dismissed.**

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

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed September 24, 2004. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No response having been received, the application became abandoned December 25, 2004. A Notice of Abandonment was mailed October 6, 2005.

The instant petition

Applicant files the instant petition wherein Applicant avers that a timely reply to the Office action, including a request for a one (1) month extension of time and fee, was filed on January 24, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support off this assertion, Applicant provides a copy of

his return-receipt postcard evidencing receipt of, *inter alia*, a reply to the Office action including an amendment and fee transmittal sheet.

A review of Office records Office records reveals receipt of the Petition for Extension of Time and fee on January 26, 2005, and Office finance records confirm that Applicant's deposit account 04-1928 was charged the fee for a one (1) month extension of time fee on January 26, 2005.

However, no amendment has been located among the application papers.

As such, the petition may not be granted at this time. Applicant must re-file a copy of the amendment responsive to the Office action before the petition may be granted.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Flexman et al.	:	
Application No. 10/659,888	:	
Filing or 371(c) Date: 09/11/2003	:	
Attorney Docket Number: AD6937 US NA	:	ON PETITION

This is a decision on the "Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR 1.[1]81(a)", filed November 3, 2006. The delay in treating this petition is regretted.

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 24, 2004. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned December 25, 2004. A Notice of Abandonment was mailed October 6, 2005.

The June 23, 2005 petition

Applicant filed a petition to withdraw the holding of abandonment on June 23, 2005, and demonstrated the timely filing of an amendment; however, Applicant had not included a copy of the amendment. The petition was dismissed without prejudice in a Decision mailed August 16, 2006. A copy of the amendment was required.

The present renewed petition

Applicant has filed a copy of the amendment with the present renewed petition. Accordingly, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 1713 for processing of the copy of the amendment filed with this renewed petition on November 3, 2006, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 24 2004

August 2004

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of	:	
Scott Douglas Kaiser	:	DECISION ON PETITION
Application No.: 10/659,891	:	TO MAKE SPECIAL
Filing Date: September 11, 2003	:	
Attorney's Docket No.: 243741US2DIV	:	

This is a decision on the petition to make special under MPEP § 708.02 (VIII) filed on April 5, 2004. Although the Application Number is listed as 10/659,181 at the top of the petition, the other information such as the Inventor and the Title clearly indicates that the petition is for Application Number 10/659,891.

The petition is **GRANTED**.

In order for an application to be granted special status under MPEP § 708.02 (VIII), an applicant has to satisfy the following five requirements:

(A) submit a petition accompanied by the fee set forth in 37 C.F.R. § 1.17(h);

(B) present all claims directed to a single invention or in the event that the United States Patent and Trademark Office determines that all the claims presented are not obviously directed to a single invention, make an election without traverse as a prerequisite to the grant of special status;

(C) state that a pre-examination search was made, listing the field of search;

(D) submit a copy of the most relevant references; and

(E) submit a detailed discussion of the references indicating how the claimed subject matter is patentable over the references.

The petition filed on April 5, 2004 includes a showing that complies with the above requirements to permit the application to be made special under the accelerated examination procedure.

Accordingly, the petition is **granted**.

The application will be indicated to be special and prosecution will proceed according to the accelerated examining procedures set forth in MPEP § 708.02 (VIII). However, as also set forth in MPEP § 708.02 VIII, if a restriction requirement is made by the Office and applicant refuses to make an election without traverse, the application will not be further examined at that time. Instead, the decision granting the petition will be revoked on the ground that all the claims are not directed to a single invention and the application will be returned to normal status and await action in its regular turn.

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

Edward Westin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 19 2007

OFFICE OF PETITIONS

In re Application of Pomaranski et al. :
Application No. 10/659,901 :
Filing Date: September 11, 2003 :
Attorney Docket No. 200310430-1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 3, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. 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.

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

COPY MAILED
MAR 23 2004
OFFICE OF PETITIONS

In re Application of :
Louis Henry Martin Jandrell :
Application No. 10/659,903 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No.: 068796.0118 :

This is a decision on the petition filed January 21, 2004, titled "Petition Regarding Omitted Items in a Non-provisional Application." Petitioner is advised that the petition will be treated as request to vacate the language that speaks to omitted items in the "Notice to File Corrected Application Papers" mailed December 2, 2003, in the above-cited application.

The petition is **dismissed**.

On September 11, 2003, the above-identified application was filed. However, on December 2, 2003, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers," stating that application had been accorded a filing date of September 11, 2003, and advising applicant that Figures 7, 10, and 13c described in the specification appeared to have been omitted and that replacement drawings were required.

In response, on January 21, 2004, applicant filed the present petition and a $130.00 petition fee. Applicant explains that Figures 7, 10, and 13c were not missing on September 11, 2003. Applicant further explains that the labels for Figures 7, 10, and 13c were inadvertently omitted when submitted with the application papers. The petition is accompanied by copies of pages 3, 7, and 16 of the drawings that contain Figures 7, 10, and 13c, respectively. Applicant further argues that the instant application incorporated by reference a prior application that contains a complete copy of the drawings, therefore; the instant application was complete on filing.

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)).

Petitioner does assert that application filed September 11, 2003, included figures 7, 10, and 13c, but concedes that the figures were not labeled. Petitioner maintains, however, that the transmittal sheet that the accompanied the application identified the above-cited application as a divisional application of

application number 09/908,011 and specifically incorporated by reference the entire disclosure of the prior application.

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, Figures 7, 10, and 13c are not new matter if they were 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 September 11, 2003.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed January 21, 2004, as a supplemental preliminary amendment requesting entry of Figures 7, 10, and 13c the specification.

A preliminary amendment adding the labels for Figures 7, 10, and 13e to the unlabeled figures should be filed prior to the first action on the merits.

The replacement drawings filed January 21, 2004, are noted and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 11, 2003 using the sixteen (16) sheets of drawings filed on that date.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

OCT 05 2007

OFFICE OF PETITIONS

In re Application of
MCDONOUGH et al.
Application No. 10/659,905
Filed: 09/11/2003
Attorney Docket No. TI-34763

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 6, 2007. A Notice of Abandonment was mailed on April 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, 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 this paragraph was unintentional" be submitted. 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 present petition.

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

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 on May 8, 2007.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

DATE _____

APPLICATION NUMBER 10/659906

DOC CODE Pet Doc TC

DOC DATE 10/9/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 10-07

Paper No: __

COPY MAILED

OCT 09 2007

OFFICE OF PETITIONS

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

In re Application of
Dabak, et al.
Application No. 10/659,906
Filing Date: 11 September, 2003
Attorney Docket No.: TI-28441B

DECISION

This is a decision on the petition filed on 23 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 December, 2005, with reply due absent extension of time on or before 12 March, 2006;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- contrary to Petitioner's averment of a 13 June, 2006, date of abandonment, the instant application went abandoned by operation of law after midnight 12 March, 2006;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 23 August, 2006, Petitioner filed the instant petition with fee, a reply in the form of an amendment, and made an incomplete statement (due to his erroneous placement of the date of abandonment) as to the nature of the delay–and the Office is interpreting Petitioner's statement to mean expressly that the entire delay from the due date of the reply (on or before 12 March, 2006) until the filing of the instant petition was unintentional–and Petitioner is placed on notice that if this understanding of the Office is incorrect in any manner that Petitioner must so inform the Office immediately, consistent with Petitioner's continuing duty of candor to the Office.[2]

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[2] See: Fn. 3, which follows.

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not

---

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[9] 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.[10]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 2600 for further processing in due course.

---

[9] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[10] 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.

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[11]) 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

[11] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of	:
Kreuter	: DECISION REFUSING STATUS
Application No. 10/659,919	: UNDER 37 CFR 1.47(b)
Filed: September 11, 2003	:
Atty. Dkt. No.: 2968.215USU1	:
For: REMOTE PERSONALIZATION AND	:
ISSUANCE OF IDENTITY DOCUMENTS	:

This decision is in response to the petition under 37 CFR 1.47(b), filed September 17, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor R. Kreuter has refused to execute the declaration for 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(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 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 returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
NOV 0 2 2006
OFFICE OF PETITIONS

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

In re Application of

William R. Hancock
Application No. 10/659,922
Filed: September 11, 2003
Attorney Docket No. H0005143-1611

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **the assignee/client has requested that the file be transferred to another attorney for future prosecution**, do not meet any the conditions set forth in 37 CFR 10.40 because a statement under 3.73(b) was not filed showing the proper chain of ownership (reel and frame).

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: **Honeywell International, Inc.**
101 Columbia Road
Morristown, NJ 07962

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

COPY MAILED

DEC 0 8 2006

OFFICE OF PETITIONS

HOGAN & HARTSON
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

In re Application of	:	
Takuya Ishida	:	
Application No. 10/659,933	:	ON PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 81863.0021	:	

This is a decision on the petition, filed December 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 10, 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 3722 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen S. Korniczky
Paul, Hastings, Janofsky & Walker LLP
P.O. Box 919092
San Diego, CA 92121-9092

COPY MAILED

AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter Joel Lasensky	:	
Application No. 10/659,936	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. 38420.00007.CIP2	:	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 12, 2005.

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

A review of the file record indicates that the power of attorney to Stephen S. Korniczky and attorneys/agents associated with Customer Number 36183 have been revoked by the assignee of the patent application on May 3, 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 Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Baker & McKenzie
101 West Broadway, 12th Floor
San Diego, CA 92101

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

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

Applicant	: Peter Joel Lasensky	: DECISION ON REQUEST FOR
Patent Number	: 7653691	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/659,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

NOV 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Tanveer R. Khondker et al	:	
Application No. 10/659,957	:	DECISION GRANTING PETITION
Filed: September 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 42P16654	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 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 Notice to File Missing Parts of Application (Notice) mailed December 3, 2003, which required the submission of an executed oath or declaration in compliance with 37 CFR 1.63, the surcharge fee of $130 for the late submission of an executed oath or declaration, and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2004. A Notice of Abandonment was mailed on November 5, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply required by the Notice of December 3, 2003, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 3, 2003 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

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

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

COPY MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Krzysik et al.	:	
Application No. 10/659,967	:	LETTER REGARDING PTA
Filed: September 11, 2003	:	
Attorney Docket No.	:	
19834 (27839-1294)	:	

This letter is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT", filed on November 8, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy insomuch as the patent term adjustment should be reduced by 1 days from 669 days to 668 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED in part.** The determination of PTA at the time of the mailing of the Notice of Allowance is six hundred forty-one (641) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 641 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 23, 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 669 days.

Applicants filed the instant "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT" on November 8, 2008.

On November 14, 2008, the issue and publication fees were paid. Accordingly, the subject letter was timely filed in accordance with 37 CFR 1.705(b).

The Office determined a patent term adjustment of 669 days based on an adjustment for PTO delay of 686 days, reduced by applicant delay of 17 days.

Applicants state that the period of patent term adjustment of 463 days for the mailing, in accordance with 37 CFR 1.703(e), of a final decision of the Board of Patent Appeals and Interferences on June 16, 2008, 463 days after March 12, 2007, the date on which a notice of appeal was filed is incorrect, as the period of patent term adjustment should be 462 days rather than 463 days.

Applicants are incorrect as 37 CFR 1.702(e) states that the period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period beginning on the date on which, as opposed to the day after the date, a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

On March 12, 2007, a notice of appeal was filed. On June 16, 2008, a final decision in favor of the applicant was mailed, 463 days after the date on which the notice of appeal was filed. Accordingly, entry of a period of 463 days of examination delay is warranted.

On February 21, 2006, a request for continued examination (RCE) was filed. On March 21, 2006, 28 days after the date the RCE was filed, a supplemental information disclosure statement (IDS) was filed.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the

following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The IDS filed on March 21, 2006, did not include a statement in accordance with 37 CFR 1.704(d). Further, the IDS was not expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8).

Accordingly, the IDS filed on March 21, 2006 is considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Entry of a period of reduction of 28 days of patent term adjustment is therefore warranted.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **six hundred forty-one (641) days** (686 days of PTO delay, reduced by 45 (17+28) days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

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

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 5/13/2009
Time: 20:43:42

PTA Calculations for Application: 10/659967			
Application Filing Date:	09/11/2003	PTO Delay (PTO):	686
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	17
Post-Issue Petitions:	0	Total PTA (days):	641
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
123	05/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
112	09/23/2008	MAIL NOTICE OF ALLOWANCE			
111	09/18/2008	ISSUE REVISION COMPLETED			
110	09/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
109	09/15/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
108	09/15/2008	DOCUMENT VERIFICATION			
107	09/15/2008	NOTICE OF ALLOWABILITY			
106	08/05/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
104	10/31/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
101	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
100	08/19/2008	DATE FORWARDED TO EXAMINER			
99	08/12/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
98	08/19/2008	DATE FORWARDED TO EXAMINER			
97	08/12/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
96	08/19/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
95	08/12/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
94	06/17/2008	ELECTRONIC REVIEW			
93	06/16/2008	EMAIL NOTIFICATION			
92	06/16/2008	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	463		58

91	06/12/2008	BPAI DECISION - EXAMINER AFFIRMED IN PART			
90	05/16/2008	EMAIL NOTIFICATION			
89	05/16/2008	DOCKETING NOTICE MAILED TO APPELLANT			
88	05/14/2008	ASSIGNMENT OF APPEAL NUMBER			
87	04/23/2008	APPEAL AWAITING BPAI DOCKETING			
86	03/07/2008	EMAIL NOTIFICATION			
85	03/07/2008	MAIL REPLY BRIEF NOTED BY EXAMINER			
84	02/27/2008	REPLY BRIEF NOTED BY EXAMINER			
83	01/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
82	01/07/2008	DATE FORWARDED TO EXAMINER			
81	12/27/2007	REPLY BRIEF FILED			
80	01/07/2008	EMAIL NOTIFICATION			
79	01/07/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
78	12/29/2007	APPEAL READY FOR BPAI DOCKETING			
77	12/26/2007	CORRESPONDENCE ADDRESS CHANGE			
76	12/05/2007	EMAIL NOTIFICATION			
75	12/04/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
74	11/21/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
73	11/14/2007	RETURN OF UNDOCKETED APPEAL TO THE TC			
72	11/14/2007	EXAM. ANS. REVIEW COMPLETE			
71	11/06/2007	ELECTRONIC REVIEW			
70	11/03/2007	EMAIL NOTIFICATION			
69	11/02/2007	MAIL EXAMINER'S ANSWER			
68	10/29/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
67	08/15/2007	APPEAL BRIEF REVIEW COMPLETE			
66	08/15/2007	DATE FORWARDED TO EXAMINER			
65	07/13/2007	APPEAL BRIEF FILED			
64	06/19/2007	ELECTRONIC REVIEW			
63	06/16/2007	EMAIL NOTIFICATION			
62	06/14/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
61	06/09/2007	APPEAL BRIEF REVIEW COMPLETE			
60	06/09/2007	DATE FORWARDED TO EXAMINER			
59.1	05/10/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
59	05/10/2007	APPEAL BRIEF FILED			

58	03/12/2007	NOTICE OF APPEAL FILED		12	50
57	03/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	03/07/2007	ELECTRONIC REVIEW			
55	03/06/2007	EMAIL NOTIFICATION			
54	03/02/2007	MAIL ADVISORY ACTION (PTOL - 303)			
53	02/27/2007	ADVISORY ACTION (PTOL-303)			
52	02/16/2007	DATE FORWARDED TO EXAMINER			
51	01/30/2007	AMENDMENT AFTER FINAL REJECTION			
50	11/30/2006	MAIL FINAL REJECTION (PTOL - 326)	12		46
49	11/27/2006	FINAL REJECTION			
48	09/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
47	07/21/2006	DATE FORWARDED TO EXAMINER			
46	07/18/2006	RESPONSE AFTER NON-FINAL ACTION			
45	04/24/2006	MAIL NON-FINAL REJECTION			
44	04/21/2006	NON-FINAL REJECTION			
43	03/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	03/21/2006	REFERENCE CAPTURE ON IDS			
41.7	03/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	03/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	02/24/2006	DATE FORWARDED TO EXAMINER			
39	02/21/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	02/24/2006	DATE FORWARDED TO EXAMINER			
37	02/21/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	35
36	02/24/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	11/16/2005	MAIL FINAL REJECTION (PTOL - 326)			
34	11/14/2005	FINAL REJECTION			
33	09/20/2005	DATE FORWARDED TO EXAMINER			
32	09/07/2005	RESPONSE AFTER NON-FINAL ACTION			
31	06/10/2005	MAIL NON-FINAL REJECTION	211		-1
30	06/08/2005	NON-FINAL REJECTION			
29	03/21/2005	PRELIMINARY AMENDMENT			
28	03/08/2005	REFERENCE CAPTURE ON IDS			

27.7	03/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	02/07/2005	REFERENCE CAPTURE ON IDS			
25.7	02/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/20/2004	MISCELLANEOUS INCOMING LETTER			
23.7	01/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	01/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/20/2004	REFERENCE CAPTURE ON IDS			
21.7	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	10/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	10/31/2003	REFERENCE CAPTURE ON IDS			
17.7	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/12/2004	REFERENCE CAPTURE ON IDS			
15.7	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/17/2004	APPLICATION RETURN FROM OIPE			
13	06/17/2004	APPLICATION RETURN TO OIPE			
12	06/17/2004	APPLICATION RETURN FROM OIPE			
11	06/17/2004	APPLICATION IS NOW COMPLETE			
10	06/17/2004	APPLICATION RETURN TO OIPE			
9	06/15/2004	APPLICATION DISPATCHED FROM OIPE			
8	06/15/2004	APPLICATION IS NOW COMPLETE			
7	05/24/2004	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

6	05/24/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	04/28/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/24/2003	CLEARED BY OIPE CSR			
2	10/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/11/2003	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

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

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of
Joseph, et al.
Application No. 10/659,969
Filed: September 11, 2003
Attorney Docket No. KCC 4979.1 (K-C 19,378B)
For: ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND LUBRICATING COMPOSITION

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed April 26, 2004, requesting that page 19 of the specification be accorded a filing date of September 11, 2003.

The application was filed on September 11, 2003. On April 14, 2004, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia,* that page 19 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioners request that the application be accorded a filing date of September 11, 2003 with page 19 as part of the original application papers based on their contention that page 19 was received in the Patent and Trademark Office (PTO) on September 11, 2003. In support, the petition is accompanied by a copy of applicants' postcard receipt showing an Office of Initial Patent Examination generated barcode showing September 11, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 49 total pages of application. In addition, petitioners point to their Express Mail log and label with a date-in of September 11, 2003 to establish that page 19 was deposited in Express Mail on September 11, 2003.

Petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s)... that is/are not among the official records of the Office."

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. The itemized postcard in this case was not properly itemized. Therefore, the Office has no way of verifying whether page 19 was filed on September 11, 2003.

As stated in MPEP 503, "[M]erely listing on the postcard..."patent application" will not serve as a proper receipt for each of the required components of an application ...." The postcard proves that 49 total pages of application were filed on September 11, 2003.

An independent review of the application file reveals that more that 49 pages were filed on September 11, 2003. The Office received more than what was itemized on the postcard. Therefore, the postcard receipt cannot be relied upon to prove missing page 19 of the specification was received on September 11, 2003.

The petition under 37 CFR 1.53(e) is **dismissed**. Any request for reconsideration should be submitted within 2 months of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

The application is being returned to the Office of Initial Patent Examination for further processing. Page 19 is not considered part of the original application papers and will not be processed as such.

Petitioners should submit an amendment to the specification removing sentence fragments on page 18 and 20 and renumbering the specification.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED
AUG 2 7 2004
OFFICE OF PETITIONS

In re Application of
Joseph, et al.
Application No. 10/659,969
Filed: September 11, 2003
Attorney Docket No. KCC 4979.1 (K-C 19,378B)
For: ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND LUBRICATING COMPOSITION

DECISION GRANTIING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed August 3, 2004, requesting that page 19 of the specification be accorded a filing date of September 11, 2003.

The application was filed on September 11, 2003. On April 14, 2004, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia,* that page 19 appeared to have been omitted.

Applicant's first petition under 37 CFR 1.53(e), filed April 26, 2004 was dismissed on June 29, 2004 because the postcard receipt was deemed not properly itemized.

In response to the petition decision, petitioner timely filed the present reconsideration petition.

Petitioners request that the application be accorded a filing date of September 11, 2003 with page 19 as part of the original application papers based on their contention that page 19 was received in the Patent and Trademark Office (PTO) on September 11, 2003. In support, the petition is accompanied by a copy of applicants' postcard receipt showing an Office of Initial Patent Examination generated barcode showing September 11, 2003 as the date of receipt.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.

The Office maintains that the itemized postcard in this case was not properly itemized. It is noted that the postcard receipt lists "49 Total Pages of Application," while the original transmittal letter properly identifies "specification [Total Pages 49]." The word "application" is viewed differently from the word "specification." In addition, while petitioner asserts that applicant's postcard receipt was not annotated and this appears to be the case, the first page of the original transmittal

letter is annotated with, " The PTO did not receive the following listed item(s): Page 19 of specification."

Nonetheless, discrepancies between a postcard receipt and an annotation on a transmittal letter should be resolved in favor of the postcard receipt.

Even though the postcard receipt was not properly itemized with respect to the specification, petitioner can establish that 49 pages of application were received. Fortunately, petitioner numbered the specification, claims and abstract in sequential order and itemized the drawings separately. The Office received pages 1-18 and 20-49. Since petitioner has established that 49 pages were received in the Office on September 11, 2003, the Office will accept page 19 as filed on September 11, 2003.

In the future, petitioner is strongly encouraged to itemize any new application postcard receipts with the word "specification" rather than the word "application."

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 11, 2003, using the copy of page 19 supplied on April 26, 2004.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/08/2010

Applicant	: Beth A. Lange	: DECISION ON REQUEST FOR
Patent Number	: 7666396	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/659,970	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 07 2010

OFFICE OF PETITIONS

JARDINE LAW OFFICES
116 129TH AVENUE NE
BELLEVUE, WA 98005

In re Patent No. 7,007,759 :
Issue Date: March 7, 2006 :
Application No. 10/659,986 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. 1002.2US01 :

This is a decision on the petition under 37 CFR 1.378(c), filed May 6, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 7, 2010 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: STEVEN H. ANTHONY
SCHWEGMAN, LUNDBERG & WOESSNER, PA
PO BOX 2938
MINNEAPOLIS, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/20/08

TO SPE OF : ART UNIT 2872 Allen, Stephone (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/659987 Patent No.: 6836581

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

H. Randall
Certificates of Correction Branch
703-308-9390 ext. 108

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes in the attached CofC are Approved-in-Part. Corrections to several errors in the CofC are noted in the attached CofC and are as follows: ① Column 10: 'Line 22' should read 'Line 27'; ② Column 11: 'Line 6' should read 'Line 5'; ③ Column 11: in Line 55, '139' should read '138'; ④ Column 12: 'Line 54' should read 'Line 59'

ARNEL LAVARIAS
PRIMARY PATENT EXAMINER
Arnel C. Lavarias 9/11/08

Stephone B. Allen
Supervisory Patent Examiner
Stephone B. Allen
SPE

2872
Art Unit

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,836,581 B1**

DATED : **December 28, 2004**

INVENTOR(S) : **Ping Xie 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 1

Line 30, change "portion" to --portions--

Line 59, change "nukes" to --makes--

Column 2

Line 61, change "cording" to --combining--

Column 3

Line 1, change "cells" to --channels--

Line 38, change "dispersions" to --dispersion--

Line 63, change "wet" to --with--

Column 4

Line 5, change "adjust" to --adjustment--

Line 55, change "chan" to --channels--

Column 6

Line 46, change "130,160" to --140,170--

Line 56, change " $Equation\ 3: \quad PhaseShift \equiv 2\pi \frac{\Delta}{\lambda_0} \equiv 2\pi f \frac{\Delta L}{c}$ **" to**

$$-Equation\ 3: \quad PhaseShift \equiv 2\pi \frac{\Delta L}{\lambda_0} \equiv 2\pi f \frac{\Delta L}{c} -$$

MAILING ADDRESS OF SENDER (Please do not use customer number

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

PATENT NO. **6,836,581 B1**

No. of additional copies

→ **0**

RECEIVED-USPTO
Patent Publication

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,836,581 B1

DATED : December 28, 2004

INVENTOR(S) : Ping Xie 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 7

Line 5, change "with" to --within--
Line 12, change "chapels" to --channels--
Line 26, change "experience" to --experiences--
Line 31, change "multiplexes" to --multiples--
Line 33, change "380°" to --360°--
Line 41, change "experience" to --experiencing--

Column 8

Line 30, change "fat" to --fast--
Line 48, change "diagram" to --diagrams--
Line 51, before "this example" change "m" to --in--
Line 54, change "cannel" to --channel--
Line 63, change "show" to --shown--

Column 9

Line 1, change "filer" to --filter--
Line 52, change "filter" to --further--

Column 10

Line 1, change "pa" to --path,--
Line 6, after "Path 516 would" remove [in]
Line 27 ~~Line 32,~~ change" de interleave" to --de-interleave--
Line 38, before "which split/combine" remove [may]
Line 47, change "right" to --might--
Line 55, after "stopbands" remove [of]
Line 57, change "en" to --embodiment--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,836,581 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

RECEIVED-USPTO
Print Publication

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,836,581 B1

DATED : December 28, 2004

INVENTOR(S) : Ping Xie et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 11

Line 4, after "invention" insert –,–

Line 5 ~~Line 6~~, change "fist" to –fast–

Line 7, after "coupling would" remove [for]

Line 10, after "following" remove [.]

Line 12, change "sub stage" to –sub-stage–

Line 36, change "cussed" to --discussed–

Line 40, change "con cation" to –communication–

Line 55, after "~~139~~ 138 with the" change "re" to –remaining–

Column 12

Line 2, change "shows" to –shown–

Line 12, change "fist" to –fast–

Line 16, change "mad" to –and–

Line 31, change "pats" to –paths–

Line 52, change "sub-stages" to –sub-stage's–

Line 59 ~~Line 54~~, after "stopbands" remove [of]

Line 60, change "charnel" to –channel–

Column 13

Line 9, change "shi" to --shift–

Line 14, change "fill" to --full

Line 22, before "Table 2" remove [.]

Line 66, after "720, 740, 750" change "is" to --are–

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,836,581 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

RECEIVED-USPTO
Patent Publication

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,836,581 B1

DATED : December 28, 2004

INVENTOR(S) : Ping Xie 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 14

Line 18, after "fundamental cell" insert –,–
Line 20, before "odd or even" change "at" to –adjacent–
Line 39, change "sub stage" to --sub-stage–
Line 46, change "sub stage" to --sub-stage–
Line 53, change "transmit" to –transmits--

Column 15

Line 25, after "polarization" change "was" to --axis–
Line 27, change "bean" to --beam--
Line 56, change "lights 140" to --light 1140--

Column 16

Line 11, change "fight" to –light–
Line 13, after "polarization" change "as" to –axis--

Column 17

Line 23, change "my" to --may--
Line 27, change "centered" to --cemented--
Line 45, change "fist" to --first–
Line 46, change "118–1182" to –1180–1182--

Column 18

Line 9, change "pt" to --path--
Line 9, after "sum of" insert --the--
Line 35, change "path" to --paths--
Line 44, change "5A" to --8A–

Column 19

Line 1, change "born" to --beam--

MAILING ADDRESS OF SENDER (Please do not use customer number

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

PATENT NO. 6,836,581 B1

No. of additional copies

0

PATENT & TRADEMARK OFFICE
Mail Station

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,836,581 B1**

DATED : **December 28, 2004**

INVENTOR(S) : **Ping Xie 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 20

Line 2, before "axis" change "they" to --the y--
Line 6, change "x" to --axis--
Line 25, change "bean" to --beam--
Line 30, change "fiction" to --function--
Line 39, change "reflection" to --refraction--
Line 52, change "θ_{S2}" to --θ_{S2}--
Line 62, change "pats" to --paths--

Column 21

Line 13, after "plasma" insert --,--
Line 13, change "θ_{P1}" to --θ_{S1}--
Line 31, change "pats" to --paths--
Line 35, change "spectra" to --spectral--

Column 22

Line 10, change "present" to --paths--
Line 11, change "fight" to --light--
Line 30, change "path" to --paths--
Line 31, change "pats" to --paths--
Line 45, change "rage" to --magnitude--
Line 50, change "Tis" to --This--
Line 60, change "stream" to --streams--
Line 62, after "substantially" insert --be--
Line 63, change "degree" to --degrees--
Line 63, after "substantially" insert --be--
Line 64, change "degree" to --degrees--
Line 67, after "substantially" remove [to]

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. **6,836,581 B1**

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ **0**

USPTO
Publication

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **6,836,581 B1**

DATED : **December 28, 2004**

INVENTOR(S) : **Ping Xie 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 23

Line 17, change "Wave guide" to --Waveguide--
Line 44, change "thermal" to --thermally--
Line 48, change "bit" to --exhibit--
Line 50, change "charnels" to --channels--

Column 24

Line 8, change "pats" to --paths--
Line 20, change "pats" to --paths--
Line 26, change "f" to --of--
Table 3, change

TABLE 3

1	@1550 nm	vacuum	Air	BK7	SFS	Fused Silica	BaK1	LaSFN30
2	n	1	1.00027	1.50066	1.64329	1.44409	1.55517	1.77448
3	dn	0	0*	0.907465	1.407	13.7	0.066	2.293
	$\beta = -x10^6$							
	dt							
4	$ax10^6$	0	0*	5.1	8.2	0.52	7.6	6.2

*assuming constant volume

to

TABLE 3

1	@1550 nm	Vacuum	Air	BK7	SF5	Fused Silica	BaK1	LaSFN30
2	n	1	1.00027	1.50066	1.64329	1.44409	1.55517	1.77448
3	$\beta = \frac{dn}{dt} x10^{-6}$	0	0*	0.907465	1.407	13.7	0.066	2.293
4	$ax10^{-6}$	0	0*	5.1	8.2	0.52	7.6	6.2

*assuming constant volume

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,836,581 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

USPTO
Publication

AUG 6 2008

P15/REV03

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,836,581 B1**

DATED : **December 28, 2004**

INVENTOR(S) : **Ping Xie 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 25

Line 3, change "rows" to --row--
Line 4, change "a" to --α--
Line 11, change "L16=862" to --L16=2.862--
Line 12, remove [is FIG. 2c]
Line 37, change "harmonics" to --harmonic--
Line 54, after "θ_{T1}" remove [it]

Column 26

Line 8, change "1A" to --10A--
Line 13, change "path Beans" to --path. Beams--
Line 16, change "element" to --elements--
Line 30, before "Equations" remove [equations]
Line 40, change "lent" to --length--

Column 27

Line 2, change "se" to --serving--
Line 4, change "bean" to --beam--
Line 7, change " θ_{T1},>θ_{R2}" to --θ_{T1}>θ_{R2}--
Line 12, change "Bach" to --Each--
Line 31, change "able" to --example--

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,836,581 B1

Eric L. Maschoff
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

No. of additional copies

→ 0

RECEIVED-USPTO
Patent Publication
AUG 6 2008

P15/REV03

PET/DEC

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 15 2004

VP
PAPER NO. ___

In re Application of	:	
Jeffery T. Ranney	:	
Serial Number: 10/660020	:	PETITION UNDER
Filed: September 11, 2003	:	M.P.E.P.708.02 V
For: NANOFILTER SYSTEM AND METHOD OF USE	:	and VI

This is in response to the petition filed December 1, 2003, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 V and VI of the MPEP is granted because the criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

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

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

MAILED
APR 19 2005
Technology Center 2100

In re Application of CHMAYTELLI	:	
Application No.: 10/660,037	:	DECISION ON PETITION
Filing Date: September 10, 2003	:	FOR ACCELERATED
For: METHODS AND APPARATUS FOR	:	EXAMINATION UNDER
CONTENT PROTECTION IN A	:	M.P.E.P. §708.02(VIII)
WIRELESS NETWORK	:	

This is a decision on the petition filed October 9, 2003 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.

The present petition does not satisfy requirements (B) and (E) of the criteria set forth above. With respect to requirement (B), the petition does not state that Applicant will make an election without traverse if the Office determines that all claims are not obviously directed to a single invention. With respect to requirement (E), a single sentence description for each cited reference is not deemed a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c).

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

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

COPY MAILED

SEP 10 2007

OFFICE OF PETITIONS

IBM CORP., IP LAW, DEPT 90A/9032
9000 S RITA ROAD
TUCSON AR 85744

In re Application of	:	
Butterworth et al	:	
Application No. 10/660,043	:	DECISION GRANTING PETITION
Filed: September 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EMS-03-02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee and drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of November 22, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication and for review of the drawings submitted on March 28, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/04/06

TO SPE OF : ART UNIT **3634**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/660061 6983783

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

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:

Acc is OK

Blair M. Johnson
Primary Examiner

SPE

3634
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

STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET, SUITE 1100
SALT LAKE CITY, UT 84111

COPY MAILED

JAN 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,458,954	:	
Issue Date. December 2, 2008	:	
Application No. 10/660,083	:	NOTICE
Filed: September 11, 2008	:	
Attorney Docket No. SHP026.6	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 17, 2006

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660099 Patent No.: 7,032,932 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: The Certificate of Correction supplied includes typographical errors. The changes should be as appear below:
① Column 2, line 30, change "are" to --and--;
② Column 5, line 2, delete "with the diaphragm";
③ Column 6, line 43, change "comprise" to --comprises--.

Daniel P Stodola — **SPE**
3679 — **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

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

COPY MAILED

SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Axon, et al.	:	
Application No. 10/660,115	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. 219002029400	:	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 9, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kate H. Murashige on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Jonathan Axon**
1732 Grand Teton Drive
Milpitas, CA 95035-6538

cc: **Mark Warfield, Associate Patent Counsel**
Johnson & Johnson
1 Johnson & Johnson Plaza
New Brunswick, NJ 08933

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
10/660,115	09/10/2003	Jonathan Axon	219002029400

CONFIRMATION NO. 6854

POWER OF ATTORNEY NOTICE

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

OC000000032240374

Date Mailed: 09/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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

PAUL LEGAARD
COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
David J. Ecker et al	:	
Application No. 10/660,122	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. IBIS0061-100/DIBIS-0002US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Paul Legaard has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Medlen & Carroll LLP
101 Howard Street
Suite 350
San Francisco, CA 94105

cc: Medlen & Carroll
440 Science Drive, Suite 203
Madison, WI 53711

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 Aug-08

VICTORIA L. BOYD
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO CA 94304-1013

COPY MAILED

AUG 27 2008

OFFICE OF PETITIONS

In re Application of :
England et al. :
Application Number: 10/660123 :
Filing Date: 09/10/2003 : ON PETITION
Attorney Docket Number: GC774-2 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 28, 2008, for failure to timely reply to the non-final Office action mailed on December 27, 2007, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on July 10, 2008.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the amendment filed as the required reply is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on July 7, 2008, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on December 27, 2007, and therefore is unnecessary. The extension of time fee paid on July 7, 2008, will be credited to counsel's deposit account as authorized.

The application is referred to Technology Center Art Unit 1645 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

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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.: 07-07

Paper No: __

FRANK G MORKUNAS
7750 DAGGET ST
SUITE 203
SAN DIEGO CA 92111

COPY MAILED
JUL 16 2007
OFFICE OF PETITIONS

In re Application of	:	
Switzer, et al	:	DECISION
Application No.: 10/660,137	:	
Filing Date: 11 September, 2004	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 19 April, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 December, 2004, with reply due absent extension of time on or before 14 March, 2005;
- the application went abandoned by operation of law after midnight 14 March, 2005;
- the Office mailed the Notice of Abandonment on 1 July, 2005, which Notice was returned to the Office on 12 July, 2005 (by date stamp), which document was scanned into the record on 19 July, 2005;
- with the instant petition (and fee), Petitioner Frank Morkunas (Reg. No. 38,974) filed a reply in the form of an amendment, and made the statement of unintentional delay and–apparently because he was not of record at the time the application was abandoned–Petitioner also supplied the statement of co-inventor Switzer, however, there is no statement from co-inventor Wormuth, to whom Office actions were mailed previous to and at the time of abandonment.

The requirements of a petition under 37 C.F.R. §1.137(b) are the petition, fee reply to the outstanding Office action, statement of unintentional delay, and, where appropriate, a terminal disclaimer and fee.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

At this writing, the record is unclear whether the failure to reply to the 14 December, non-final Office action was the result of:

- a change of address for which the Office was not Noticed or some other similar event(s) of a unintentional nature; or
- alternatively, the co-inventor to whom the Office action was mailed, co-inventor Wormuth, decided not to reply in a manner that was intentional.

In the absence of this information, it is not possible for the Office to determine the nature of the delay herein. Petitioner must clarify the matter, and a significant tool in this regard would be a statement from/by co-inventor Wormuth.

Thus, it appears as of this writing that Petitioner has yet to satisfy the "statement/showing" requirements under the regulation. (Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.) Petitioner also should review the discussion in the BACKGROUND, above, before resubmitting a petition.

---

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/27/07

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/660148** Patent No.: **6971495**

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**.

A Green

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: No change in scope of claims; Prima facie, No new matter

Ex Dillon

Gene [signature]
SPE

3651
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN TX 78701

COPY MAILED
DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Gordon et al. :
Application No. 10/660,155 : ON PETITION
Filed: September 11, 2003 :
Attorney Docket No. 9072-2 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed August 25, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the Restriction Requirement mailed September 19, 2005. The Notice set an extendable 1 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on October 20, 2005. A Notice of Abandonment was mailed on October 10, 2006.

Petitioner asserts that the Restriction Requirement mailed on September 19, 2005 was never received. A review of the record indicates the Restriction Requirement was mailed to an incorrect correspondence address. Petitioner submitted a change of correspondence address on June 29, 2005. A review of the record shows that a copy of the change of correspondence address was received on June 29, 2005 but not entered until December 5, 2005 after the Restriction Requirement was mailed. Thus, the Restriction Requirement was improperly mailed.

This application is being forwarded to Art Unit 3738 for re-mailing of the Restriction Requirement to the current address of record. The one month extendable time period for reply will be set to run from the mailing date of the re-mailed Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08993-7003

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Kirkman et al. :
Application No. 10/660,184 :
Filed: September 11, 2003 : ON PETITION
Attorney Docket No.: VTN 630 NP :

This is a decision on the Petition, filed November 22, 2004, requesting the above-identified application be accorded a filing date of September 11, 2003, including 3 sheets of drawings.

The application was filed on September 11, 2003. On October 15, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had not been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that 3 sheets of drawings were originally filed with the application on September 11, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, inter alia, 3 sheets of drawings in the above-identified application by this Office on September 11, 2003.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, inter alia, 3 sheets of drawings in the above-identified application by this Office on September 11, 2003.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of 3 sheets of drawings, filed with the instant petition on November 22, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 10-0750, as requested in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 11, 2003, and an indication that 15 sheets of drawings were present on filing, using the 3 sheets of drawings filed with the instant petition on November 22, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
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

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

COPY MAILED
DEC 0 8 2008

In re Application of	:	
Beckley et al.	:	
Application No. 10/660186	:	
Filing or 371(c) Date: 09/11/2003	:	DECISION
Attorney Docket Number: A01477	:	ON PETITION

This is a decision on the petition Under 37 CFR 1.181 to withdraw holding of abandonment, filed October 16, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed May 3, 2007, wherein no claims were allowed. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an Amendment in response to the Office action on July 3, 2007; however, the Amendment was non-coompliant. Applicant was so notified in a Notice of Non-Compliant Amendment, mailed July 16, 2007. Applicant then filed a Notice of Appeal and a Request for Notice of Appeal in response to the Office action on October 3, 2005, and a Pre-Appeal Brief Request for Review on July 30, 2008.

In a Notice of Panel Decision from Pre-Appeal Brief Review mailed March 11, 2008, Applicant was notified that prosecution would be re-opened. The rejection was withdrawn and a new Office action was to be mailed. Applicant was informed that no further action was required by Applicant at that time.

Thereafter, this Office mailed a Notice of Abandonment on October 7, 2008, indicating as the reason for abandonment Applicant's failure to reply to the Notice of Panel Decision from Pre-Appeal Brief Review, mailed March 11, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that no reply to the Notice of Panel Decision from Pre-Appeal Brief Review, mailed March 11, 2008, was due from Applicant.

Office records

A review of the Notice of Panel Decision from Pre-Appeal Brief Review mailed March 11, 2008, confirms that Applicant was notified that no further action was required by Applicant at that time, and that a new Office action would be forthcoming.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1796 for the mailing of a new Office action in accordance with the Notice of Panel Decision from Pre-Appeal Brief Review mailed March 11, 2008, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

In re Application of

Walsh, et al. :

Application No. 10/660,215

: DECISION ON PETITION

Filed: September 11, 2003

:

Attorney Docket No. 1432.06US03

This is a decision on the petition under 37 CFR 1.137(b), filed, December 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 31, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 20, 2005.

The amendment filed December 5, 2006, is noted.

The application is being forwarded to Technology Center 1600, GAU 1657 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

NOV 2 3 2004

OFFICE OF PETITIONS

In re Application of
Leveque et al.
Application No. 10/660,236
Filed: September 11, 2003
Attorney Docket No. AD6571 US CNT 1

: 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 November 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/585,172, filed June 1, 2000, as set forth in the amendment filed on November 2, 2004.

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 pending application was filed on September 11, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-

noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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 above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1723 for appropriate action on the amendment filed November 2, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 29 2007

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

In re Patent No. 6,889,143	:	
Issue Date: May 3, 2005	:	
Application No. 10/660,253	:	ON PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 03988/100K297-US1	:	

This is a decision on the petition filed February 2, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's information 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

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

Donald W. Huntley
Huntley & Associates
P.O. Box 948
Wilmington, DE 19899-0948

COPY MAILED

SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of

Kyoichi Tomita et al.
Application No. 10/660,255
Filed: September 11, 2003
Attorney Docket No. Kogyo-11A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed March 27, 2006 & April 26, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **the responsible attorney for the patent cases in Japan has asked that I turn prosecution over to Mr. Brian A. Gomez.....**, do not meet any the conditions set forth in 37 CFR 10.40.

As directed on June 28, 2006 all future communications from the Office will be directed to the below-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: Gomez International Patent Office, LLC
1501 N. Rodney Street
Suite 101
Wilmington, DE 19806

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert T. Kulakowski	:	
Application No. 10/660,265	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. INMAGIC.001C3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2005.

The request is **NOT APPROVED** as moot.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Amelia AU
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JAN 27 2006
TECHNOLOGY CENTER 2100

In re Application of: YAGAWA
Application No. 10/660,278
Filed: September 10, 2003
For: METHOD AND APPARATUS FOR DATA INTEGRATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 03 January 2006, 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

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

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of
Zung, et al.
Application No. 10/660,288
Filed: September 11, 2003
Attorney Docket No. 16497.138.1.1.2.1

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 September 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed U.S. App. No. 10/652,182 set forth in the amendment filed December 14, 2005.

The petition is **DISMISSED AS MOOT.**

A reference to the application identified as "Atty Docket. No. 6771USP3, filed August 29, 2003," was provided in the first sentence of the specification of the instant application as filed following the title, as required by 37 CFR 1.78(a)(3).

Pursuant to In re Fouche, 439 F.2d 1237 (1971), sufficient information was provided as part of the disclosure via the attorney docket number to distinguish the application as U.S. App. No. 10/652,182.

In view of the above, a petition under 37 CFR 1.78 is not required. No fee has been assessed in regard to this matter.

Any questions concerning this decision on petition may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3734 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.

Anthony Knight
Supervisor
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

IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Brent Russell Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7644118	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAMBERT & ASSOCIATES, P.L.L.C.
92 STATE STREET
BOSTON, MA 02109-2004

COPY MAILED

JAN 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Milton Davila, et al.	:	
Application No. 10/660,294	:	ON PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 04-080-JS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 16, 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) was obtained. An Advisory action was mailed June 14, 2005 indicating that the reply filed on May 18, 2005 (Certificate of Mailing dated May 16, 2005), failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on May 16, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed October 31, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 2800, Art Unit 2876 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/14/09 Paper No.: —

TO SPE OF : ART UNIT ~~2168~~ 2159

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660296 Patent No.: 7401082

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

JAMES K. TRUJILLO 10/29/09
SUPERVISORY PATENT EXAMINER

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

SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 04/23/2010

Applicant	: John W. Stewart	: DECISION ON REQUEST FOR
Patent Number	: 7606887	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/660,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas A. Gallagher
65 Woods End Road
Stamford CT 06905

COPY MAILED
MAY 0 5 2004
OFFICE OF PETITIONS

In re Application of
Warren et al.
Application No. 10/660,305
Filed: September 11, 2003
Attorney Docket No. XSB-001
Title of Invention: **METHODS FOR DETERMINING THE SIMILARITY OF CONTENT AND STRUCTURING UNSTRUCTURED CONTENT FROM HETEROGENEOUS SOURCES**

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed February 23 , 2004, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on September 11, 2003, without an executed oath or declaration. Accordingly, on December 5, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 5, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, exhibits and a partially executed declaration. To make timely a request for a one (1) month extension of time was submitted with the petition.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing

inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirement (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). The petition states Dr. Davulcu refused to sign off on the declaration. To the extent rule 47 applicant contends that the inventor Davulcu orally refused to execute the application papers, rule 47 applicant should provide evidence which would allow for such a finding.[1] The petition indicates that Davulcu refused on at least two occasions to execute the application papers however evidence to this fact has not been presented. A statement by someone who has first hand knowledge of the refusal should be provided in the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. See MPEP 409.03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas A. Gallagher
65 Woods End Road
Stamford CT 06905

COPY MAILED
JUL 1 9 2004
OFFICE OF PETITIONS

In re Application of
Warren et al.
Application No. 10/660,305
Filed: September 11, 2003
Attorney Docket No. XSB-001
Title of Invention: METHODS FOR DETERMINING THE SIMILARITY OF CONTENT AND STRUCTURING UNSTRUCTURED CONTENT FROM HETEROGENEOUS SOURCES

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 9, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors Ramakrishnan and Davulcu have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers were sent to non-signing inventors' last known address. Both non-signing inventors refused to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dr.IV Ramakrishnan, Ph.D
4 High Gate Drive
Setauket, NY 11733-1820

COPY MAILED

JUL 1 9 2004

OFFICE OF PETITIONS

In re Application of
Warren et al.
Application No. 10/660,305
Filed: September 11, 2003
Attorney Docket No. XSB-001
Title of Invention: METHODS FOR DETERMINING THE SIMILARITY OF CONTENT AND STRUCTURING UNSTRUCTURED CONTENT FROM HETEROGENEOUS SOURCES

: LETTER

Dear Dr. Ramakrishnan :

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Thomas A. Gallagher
65 Woods End Road
Stamford CT 06905

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dr. Hasan Davulcu, Ph.D
1064 San Palmilla Apartments
750 W. Baseline Road
Tempe, Arizona 85283-1107

COPY MAILED

JUL 1 9 2004

OFFICE OF PETITIONS

In re Application of
Warren et al.
Application No. 10/660,305
Filed: September 11, 2003
Attorney Docket No. XSB-001
Title of Invention: METHODS FOR DETERMINING THE SIMILARITY OF CONTENT AND STRUCTURING UNSTRUCTURED CONTENT FROM HETEROGENEOUS SOURCES

: LETTER

Dear Dr. Davulcu:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Thomas A. Gallagher
65 Woods End Road
Stamford CT 06905

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

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of
Barri & Martin
Application No. 10/660,344
Filed: September 10, 2003
Attorney Docket No.: MAT 3H5
For: BREATH-SENSITIVE TOY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 5, 2004 (certificate of mailing date May 3, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 10, 2003 without an executed oath or declaration. Accordingly, on December 2, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing

In response, on May 5, 2004 (certificate of mailing date May 3, 2004), a petition for a three month extension of time and required fee, a declaration executed by 1 of 2 joint inventors, the surcharge, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that the inventor has properly refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

The petition and accompanying exhibit establish that Mr. Martin was presented with signature papers. They do not establish that Mr. Martin was presented with the application papers.

Mr. Martin must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioner can show that Mr. Martin was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Mr. Martin cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Mr. Martin's signature on the declaration would obligate him, under penalty of "fine or imprisonment, or both" to particulars to which Mr. Martin can only attest after having had the opportunity to review the subject patent application.

Petitioner must send Mr. Martin a copy of the as filed above-identified application and request that he sign the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of Barri & Martin Application No. 10/660,344 Filed: September 10, 2003 Attorney Docket No.: MAT 3H5 For: BREATH-SENSITIVE TOY	: : : : :	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 1.47(a) CFR DISMISSED AS MOOT

Papers filed on September 14, 2004 (certificate of mailing date September 10, 2004) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on June 18, 2004, included a Declaration signed by the previously non-signing inventor, Raymond J. Martin, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 3712.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/20/2010

Applicant	: Darin Barri	: DECISION ON REQUEST FOR
Patent Number	: 7637794	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **243** 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 : 11/12/08

TO SPE OF : ART UNIT 1643 Larry Helms (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660357 Patent No.: 7090844

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1643
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.
10/660,365	09/10/2003	Bradley J. Aitchison	11429/12:2	5483

3528 7590 11/27/2006

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND, OR 97204-1268

EXAMINER
GREENE, JASON M

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 11/27/2006

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
P.O. Box 1450
Alexandria, VA 22313-1450
WWW.USPTO.GOV

Mailed: dss

In re Application of Aitchison et al..
Serial No.: 10/660,365
Filed: September 10, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: PRECURSOR MATERIAL DELIVERY SYSTEM FOR ATOMIC LAYER DEPOSTION

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed December 12, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the name of Tommy Turkulainen to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Duane S. Smith
Supervisory Patent Examiner
Art Unit 1724
Technology Center 1700

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

COPY MAILED

MAR 3 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Wolfgang Krahl
Application No. 10/660,372
Filed: September 11, 2003
Atty's Docket No. 22580

This is a decision on the paper entitled "Completion of Filing Requirements" filed January 22, 2004, which is treated as a petition under 37 CFR 1.53(e), in response to the Notice To File Missing Parts mailed December 5, 2003.

The petition is **DISMISSED**.

The application was filed September 11, 2003. However, on December 5, 2003. the Office of Initial Patent Examination mailed a Notice To File Missing Parts noting that the filing fee and oath or declaration were missing. Receipt of the filing fees and the oath or declaration have been submitted but, the Notice also indicated that while the application had been accorded a filing date of September 11, 2003, that Figures 7-11 described in the specification appeared to have been omitted.

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)).

In this case, petitioners neither assert that the missing figures were deposited on September 11, 2003 nor request the January 22, 2004 (the date the missing page was supplied) filing date. Rather, petitioners have simply supplied a new set of drawings sheets which includes Figures 1-11.

Even though the petition is inappropriate and is subject to dismissal, a petition fee in the amount of $130.00 is still required. Accordingly, per petitioner's authorization, deposit account no. 18-2025 will be charged in the amount of $130.00 for the petition fee.

Petitioners should either provide evidence that Figures 7-11 were filed on September 11, 2003 (*i.e.*, with an itemized postcard receipt in accordance with MPEP 503) or state on renewed petition that petitioners desire to accept the application, including Figures 7-11, with a filing date of January 22, 2004. Alternatively, petitioners may submit Figures 7-11 as a preliminary amendment. If Figures 7-11 are submitted as a

preliminary amendment, it will be reviewed by the examiner for new matter.[1]

It is noted that a completely new set of drawings containg Figures 1-11, not just the omitted Figures, were filed with the petition on January 22, 2004. The application will be processed and examined using only the application papers filed on September 11, 2003. The four (4) sheets of drawings containing Figures 1-11 filed on January 22, 2004, will not be used for processing, but will be retained in the application file.

In view of the above, the "Notice" was properly mailed and will not be withdrawn. The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 11, 2003, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.121(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

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

COPY MAILED

APR 2 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wolfgang Krahl :
Application No. 10/660,372 :
Filed: September 11, 2003 :
Atty's Docket No. 22580 :

This is a decision on the renewed petition under 37 CFR 1.182, filed April 6, 2004 in response to the Notice To File Missing Parts mailed December 5, 2003 and the petitions decision mailed March 31, 2004.

The application was filed September 11, 2003. However, on December 5, 2003. the Office of Initial Patent Examination mailed a Notice To File Missing Parts noting that the filing fee and oath or declaration were missing. Receipt of the filing fees and the oath or declaration were submitted January 22, 2004 but, the Notice also indicated that while the application had been accorded a filing date of September 11, 2003, Figures 7-11 described in the specification appeared to have been omitted. Petitioners filed a petition on January 22, 2004 but neither asserted that the missing figures were deposited on September 11, 2003 nor requested the January 22, 2004 (the date the missing page was supplied) filing date. The petition was dismissed in a decision mailed March 31, 2004.

Petitioner asserts that the papers containing Figure 7-11 were among the papers filed on September 11, 2003, and with the renewed petition, submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 2 and bears a United States Patent and Trademark Office date-stamp of September 11, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.** The "Notice" was improperly mailed and is withdrawn.

Given the basis for granting the petition, no petition fee is due and none has been charged.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on September 11, 2003 and the two sheets of drawings containing Figures 7-11 submitted on petition April 6, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS, LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396

COPY MAILED

AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of
Safaei
Application No. 10/660,409
Filed: September 10, 2003
Attorney Docket No. W1200-00041

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed July 19, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

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 December 2, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 3, 2004.

The instant petition is accompanied by corrected drawings, a new declaration, and an abstract.

The petition asserts and proves unavoidable delay based on non-receipt of the Notice to File Missing Parts. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will be credited to petitioner's deposit account.

A fee of $130 is due for the late submission of a proper oath or declaration. Therefore, $130 will be charged to petitioner's deposit account.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

Paper No. 080204

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

AUG 27 2004

In re Application of:	:	
ERIK LIER	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/660,410	:	
Filed: September 10, 2003	:	
Attorney Docket No.: **040092-020110US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 6, 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 from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

COPY MAILED
FEB 25 2004
OFFICE OF PETITIONS

In re Application of
Byrnes & Sullivan
Application No. 10/660,411
Filed: September 10, 2003
Attorney Docket No. 35693.830003.US0
For: REDUCED SKIN ABRASION SHOE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed January 30, 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.**

The above-identified application was filed on September 10, 2003 without an executed oath or declaration. Accordingly, on December 2, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, a declaration executed by Jerry Edwards, president of DashAmerica, Inc., a company with proprietary interest in the invention, the surcharge, the petition fee, and the instant petition were filed on January 30, 2004. The petition sets forth the last known address of each non-signing inventor and explains that each inventor received the application papers, but did not respond to the request that he/she sign the oath or declaration for the patent 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 (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration signed by Mr. Edwards does not list Ms.

Byrnes and Mr. Sullivan's information. The declaration must set forth each inventor's residence, citizenship and mailing/ post office address. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Ms. Byrnes and Mr. Sullivan is REQUIRED. See MPEP 409.03(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
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:
Byrnes & Sullivan	: DECISION ACCORDING
Application No. 10/660,411	: STATUS UNDER
Filed: September 10, 2003	: 37 CFR 1.47(b)
Attorney Docket No. 35693.830003.US0	:
For: REDUCED SKIN ABRASION SHOE	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed March 3, 2004.

Petitioner has shown that the non-signing inventors, Byrnes and Sullivan, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Brian P. Kinnear establishes that the inventors were successfully mailed the application papers, including the specification, claims and drawings, but both failed to respond to the request that she/he sign the declaration. In addition, petitioner has shown that DashAmerica, Inc. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that all work created by the employees (the non-signing inventors) during employment was the property of DashAmerica, Inc. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEAN SULLIVAN
843 RACQUET LANE
BOULDER, CO 80303

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Byrnes & Sullivan	:	
Application No. 10/660,411	:	LETTER
Filed: September 10, 2003	:	
Attorney Docket No. 35693.830003.US0	:	
For: REDUCED SKIN ABRASION SHOE	:	

Dear Mr. Sullivan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRACY BYRNES
1286 BANNER CIRCLE
ERIE, CO 80516

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Byrnes & Sullivan	:	
Application No. 10/660,411	:	LETTER
Filed: September 10, 2003	:	
Attorney Docket No. 35693.830003.US0	:	
For: REDUCED SKIN ABRASION SHOE	:	

Dear Ms. Byrnes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TAREK N. FAHMI
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Mohan et al.	:	DECISION ON PETITION
Application No. 10/660,418	:	TO WITHDRAW
Filed: September 10, 2003	:	FROM RECORD
Attorney Docket No. 2950P087	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2004.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 1, 2005 the power of attorney to Blakely Sokoloff Taylor & Zafman LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEFFREY K. SETO
SETO PATENTS
406 RIVERLAND DRIVE
SALEM, VA 24153

COPY MAILED

MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of	:
Michael F. Harris	: DECISION ON PETITION TO
Application No. 10/660,429	: WITHDRAW FROM RECORD
Filed: September 12, 2003	:
Attorney Docket No. HAR-001	:

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 12, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jeffrey K. Seto has been revoked by the applicant of the patent application on January 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by assignee.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

This application is currently before Technology Center AU 3771 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Rodney L. Sparks
4931 Lake Tree Lane
Crozet, VA 22932

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080728

DATE : February 16, 2006

TO SPE OF : ART UNIT 2651

SUBJECT : Request for Certificate of Correction on Patent No.: 6940682

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: /Andrea Wellington/ Art Unit 2627

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.
10/660,442	09/11/2003	Rainer Albert	31625B	4891

1095 7590 03/01/2007
NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

EXAMINER
ANDERSON, REBECCA L

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
03/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Novartis
Corporate Intellectual Property
One Health Plaza, Building 430/2
East Hanover, NJ 07936-1080

Date: February 28, 2007
Application No. 10/660,442
Filed: 09/11/2003
Subject: **INDOLYLMALEIMIDE DERIVATIVES**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed February 7, 2007 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as claimed in claims 1, 7 and 9. Accordingly, this application has been changed by the **deletion of Nigel Graham Cooke and Sylvain Cottons.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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.

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

JUL 03 2007

OFFICE OF PETITIONS

In re Patent No. 7,220,774	:	
Albert et al.	:	
Issue Date: May 22, 2007	:	LETTER REGARDING
Application No. 10/660,442	:	PATENT TERM ADJUSTMENT
Filed: September 11, 2003	:	
Atty Docket No. 31625B	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed January 3, 2007, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b). Applicants note that the correct initial patent term adjustment indicated in the Notice of Allowance should be zero (0) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **ZERO (0)** days.

Prior to a decision being rendered, the application matured into a patent with a revised patent term adjustment of ninety-eight (98) days. For the reasons stated 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 **EIGHTEEN (18)** days.

On November 24, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 104 days. Applicants disclose that the Office failed to enter a period of reduction, pursuant to 37 CFR 1.704(c)(7), of 115 days associated with the filing of an

amendment on November 28, 2005 to correct an omission in an amendment filed August 5, 2005.

Applicants are correct. Pursuant to §1.704(c)(7), a period of reduction of 115 days has been entered.

Furthermore, a review of the record reveals that a period of reduction, pursuant to 37 CFR 1.704(c)(10), of 23 days should have been entered in association with the filing of a petition to correct inventorship on February 7, 2007. This petition was filed after the mailing of the Notice of Allowance. The Office responded with a decision on March 1, 2007. Accordingly, the period of reduction is 23 days (beginning on February 7, 2007 and ending on March 1, 2007.

However, a review of the record also reveals that a period of reduction of 58 days was entered in association with the filing on January 3, 2007 of this candor letter. This reduction is improper. As stated in § 1.704(e):

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 0 days (201 days of Office delay reduced by 212 days of applicant delay).

After the mailing of the notice of allowance, an additional period of adjustment of 52 days accrued for the Office taking in excess of 3 years to issue the patent. Petitioner is reminded that 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 also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the patent issued 3 years and 253 days after the filing date. However, 201 days overlapped so an additional period of 52 days, not 253 days, was entered.

Given the additional period of reduction of 23 days, discussed above, the patent should have issued with a revised patent term adjustment of 18 days (201 + 52) - (212 + 23)).

As this letter was submitted to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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 **eighteen (18)** days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,220,774 B2

DATED : May 22, 2007

INVENTOR(S) : Albert 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 (98) days

Delete the phrase "by 98" and insert – by 18 days--

Day : Friday
Date: 6/29/2007

PALM INTRANET

Time: 10:44:23

PTA Calculations for Application: 10/660442			
Application Filing Date:	09/11/2003	PTO Delay (PTO):	253
Issue Date of Patent:	05/22/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	155
Post-Issue Petitions:	0	Total PTA (days):	18
PTO Delay Adjustment:	-80		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	06/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	58		
62	06/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		23	
61	06/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		115	
57.5	05/02/2007	PTA 36 MONTHS	52		
57	05/22/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
56	04/17/2007	EXPORT TO FINAL DATA CAPTURE			
55	04/16/2007	DISPATCH TO FDC			
54	03/27/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
53	03/27/2007	WORKFLOW - SIGNATORY REVIEW - FINISH			
52	02/07/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
51	03/01/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
50	02/07/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
49	02/28/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
48	02/07/2007	PUBS CASE REMAND TO TC			
47	02/21/2007	FINISHED INITIAL DATA CAPTURE			
46	02/16/2007	ISSUE FEE PAYMENT VERIFIED			
45	02/16/2007	ISSUE FEE PAYMENT RECEIVED			
44	01/03/2007	MISCELLANEOUS INCOMING LETTER		58	51
43	12/01/2006	EXPORT TO INITIAL DATA CAPTURE			
42	11/24/2006	MAIL NOTICE OF ALLOWANCE			
41	11/24/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

40	11/24/2006	MAIL EXAMINER'S AMENDMENT			
39	11/21/2006	WORKFLOW - SIGNATORY REVIEW - BEGIN			
38	11/21/2006	ISSUE REVISION COMPLETED			
37	11/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	11/21/2006	EXAMINER'S AMENDMENT COMMUNICATION			
34	11/21/2006	NOTICE OF ALLOWABILITY			
33	11/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	09/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	09/14/2006	REFERENCE CAPTURE ON IDS			
30	09/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
29	09/21/2006	DATE FORWARDED TO EXAMINER			
28	09/14/2006	RESPONSE AFTER NON-FINAL ACTION		97	26
27	09/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	03/09/2006	MAIL NON-FINAL REJECTION			
25	03/06/2006	NON-FINAL REJECTION			
24	10/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/19/2005	DATE FORWARDED TO EXAMINER			
22	11/28/2005	RESPONSE AFTER NON-FINAL ACTION			
21	10/25/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
20	10/24/2005	MISCELLANEOUS ACTION WITH SSP			
19	08/15/2005	DATE FORWARDED TO EXAMINER			
18	08/05/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
17	08/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	05/31/2005	MAIL RESTRICTION REQUIREMENT	201		-1
15	05/26/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
14	08/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	10/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/11/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

11	09/11/2003	PRELIMINARY AMENDMENT			
10	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	12/05/2003	APPLICATION RETURN FROM OIPE			
8	12/05/2003	APPLICATION RETURN TO OIPE			
7	12/05/2003	APPLICATION IS NOW COMPLETE			
6	12/04/2003	APPLICATION DISPATCHED FROM OIPE			
5	12/04/2003	APPLICATION IS NOW COMPLETE			
4	11/24/2003	CASE CLASSIFIED BY OIPE			
3	11/24/2003	CLEARED BY OIPE CSR			
2	11/04/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/11/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Todd A. Sullivan
Hayes Soloway, P.C.
175 Canal Street
Manchester, NH 03101

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephen L. Martin, et al.	:	
Application No. 10/660,447	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. Bosaco.1010	:	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 19, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Todd A. Sullivan has been revoked by the assignee of the patent application on December 30, 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 Cheryl Gibson-Baylor at 571-272- 3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Sheehan Phinney Bass & Green, PA
c/o Peter Nieves
1000 Elm Street
Manchester, NH 03105-3701

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

APR 30 2007

OFFICE OF PETITIONS

In re Application of
Lutz BIEDERMANN, et al
Application No. 10/660,452
Filed: September 11, 2003
Attorney Docket No. 7948/16

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Brinks Hofer Gilson & Lione has been revoked by the assignee of the patent application on November 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There is an outstanding Office action mailed February 8, 2007 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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

Stout, Uxa, Buyan & Mullins, LLP
Suite 300
4 Venture
Irvine, CA 92618

COPY MAILED
SEP 12 2008

In re Application of	:
Christopher J. Calhoun	:
Application No. 10/660,461	: DECISION ON PETITION
Filed: September 10, 2003	:
Attorney Docket No. MA9758P	:

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2008, 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 Rejection of October 23, 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 January 24, 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 $770; and (3) a proper statement of unintentional delay.

As requested, the petition fee of $770 and the Request for Continued Examination (RCE) fee of $405 will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed amendment.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 2 1 2004

Edgar W. Averill, Jr.
8244 Painter Avenue
Whittier, CA 906602

In re Application of	:	
Tor R. Lund et al	:	
Serial No.: 10/660,470	:	DECISION ON PETITION
Filed: September 12, 2003	:	
For: Hair Clippers With Finger Illumination:		

This is in response to applicants' petition filed December 12, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director,
Technology Center 3700/2900

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

DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK, NY 10150-5257

COPY MAILED
FEB 26 2004
OFFICE OF PETITIONS

In re Application of :
Hajime Saito, et al. :
Application No. 10/660,472 :
Filed: September 11, 2003 :
Attorney Docket No. 09867/0200009-US0 :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 19, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Takao Tada, such that the declaration can be accepted under 37 CFR 1.47(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *dilligent effort* was made to locate the inventor. The statement(s) of fact 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.

The petition indicates that Mr. Tada was employed by Assignee of the Konami Corporation. Mr. Tada retired from his employment as of July 30, 2003 and presently his whereabouts cannot be determined. Since petitioner has access to inventor Tada's employee records, petitioner should indicate what an inspection of the records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Did any

of Mr. Tada's co-workers keep in touch with him? At the very least, a search should be made of the telephone directories of the greater Japan area, and any regional or national registry(s). Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Tada is located, then a complete copy of the application papers (specification, claims, drawings, drawings, oath, etc.) should be mailed to Mr. Tada's address, return receipt requested, along with a cover letter of instructions which includes 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. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If the inventor is located and the inventor orally refuses to join in the application after having been presented with a copy of the application papers (specification, claims, drawings), that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK, NY 10150-5257

COPY MAILED
MAY 19 2004
OFFICE OF PETITIONS

In re Application of	:	
Hajime Saito et al.	:	
Application No. 10/660,472	:	DECISION NOTING JOINDER
Filed: September 11, 2003	:	OF INVENTORS AND PETITION
Attorney Docket No. 09867/0200009-US0	:	UNDER 37 CFR 1.47 (a) MOOT

Papers filed on April 16, 2004 in response to a "Decision Refusing Status Under 37 CFR 1.47 (a)," mailed February 26, 2004, included a Declaration signed by previously nonsigning inventor Takao Tada in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47 (a) is moot; this application does not have any rule 1.47 (a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47 (a).

This application is being forwarded to Technology Center AU 3713 for examination in due course.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

Pillsbury Winthrop Shaw Pittman, LLP
P. O. Box 10500
McLean, VA 22102

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,840,298	:	
Issue Date: January 11, 2005	:	
Application No. 10/660,486	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 016374-0305920	:	

This is a decision on the petition filed March 24, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070131

DATE : January 31, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,138,398

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: James O. Wilson Art Unit 1624

10/660489

OIPE IAP44 DEC 29 2006 PATENT & TRADEMARK OFFICE

PATENT
Customer No. 22,852
Attorney Docket No. **02481.1746-01**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: **7,138,398 B2**

Inventors: **Ursula SCHINDLER, et al.**

Issue Date.: **November 21, 2006**

For: **SUBSTITUTED 4-AMINO-2-ARYL-CYCLOPENTA[D]PYRIMIDINES, THEIR PRODUCTION AND USE AND PHARMACEUTICAL PREPARATIONS CONTAINING SAME**

Certificate JAN 08 2007 of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Sir:

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, and to 35 U.S.C. 255 and 37 C.F.R. 1.323, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page.

OK to Enter DR 1/31/07

The mistakes identified in the attached form and preceded by an asterisk (*), occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent.

The mistakes identified in the attached form, and not preceded by an asterisk (*), are of a clerical or typographical nature, or of minor character, and resulted from an error made in good faith by applicants. A check in the amount of $100.00 (the fee set forth in 37 C.F.R. § 1.20(a)) is attached to cover the costs of issuing this Certificate. Should a check not be attached or should any additional fees be needed, authorization

01/03/2007 SZEWDIE1 00000050 7138398
01 FC:1811 100.00 OP

JAN 10 2007

is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 06-0916.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: DEC 29 2006

By: _____
Ernest F. Chapman
Reg. No. 25,961

JAN 10 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,138,398 B2

DATED: November 21, 2006

INVENTORS: Ursula SCHINDLER, et al.

It is hereby certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

*On the title page, item (54), "SUBSTITUTED 4-AMINO-2-ARYLCYCLOPENTA[D]PYRIMIDINES, THEIR PREPARATION, THEIR USE AND PHARMACEUTICAL PREPARATIONS COMPRISING THEM" should read --SUBSTITUTED 4-AMINO-2-ARYL-CYCLOPENTA[D]PYRIMIDINES, THEIR PRODUCTION AND USE AND PHARMACEUTICAL PREPARATIONS CONTAINING SAME--.

On the title page, item (57), line 10, "ofisorders" should read --disorders--.

*In claim 1, column 21, line 20, "-N((C_1-C_4-alkyl)$_2$," should read -- -N((C_1-C_4)-alkyl)$_2$,--.

*In claim 1, column 21, lines 21-22, "-CO-NH-(C_1-C_4-alkyl," should read -- -CO-NH-(C_1-C_4)-alkyl,--.

*In claim 1, column 21, line 32, "-NH-(C_1-C_4-alkyl," should read -- -NH-(C_1-C_4)-alkyl,--.

*In claim 1, column 21, line 35, "-CO-N((C_1-C_4-alkyl)$_2$," should read -- -CO-N((C_1-C_4)-alkyl)$_2$,--.

In claim 1, column 21, line 44, "contain" should read --contains--.

*In claim 15, column 23, lines 25-26, "2-(3-chlorophenyl)-4-((3-pyridyl methyl)amino)-6,7-dihydro-5H-cyclopenta[d]pyrimidine," should read --2-(3-chlorophenyl)-4-((3-pyridylmethyl)amino)-6,7-dihydro-5H-cyclopenta[d]pyrimidine,--.

*In claim 16, column 24, line 38, "claim 12." should read --claim 1.--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

Patent No. 7,138,398 B2

No. of additional copies
@ 50¢ per page

JAN 1 0 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

COPY MAILED

MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Jong Soeb Lee, et al.	:	
Application No. 10/660,499	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 20020-02USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 28, 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 October 18, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 18, 2006. Accordingly, the date of abandonment of this application is October 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 03 2008

OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

In re Application of :
Juha Salokannel et al :
Application No. 10/660,549 : ON PETITION
Filed: September 12, 2003 :
Attorney Docket No. 4208-4153 (NC 28945)

This is a decision on the petition, filed July 2, 2008 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, 2008 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

COPY MAILED
SEP 12 2008

In re Application of	:	
Juha Salokannel et al	:	
Application No. 10/660,549	:	DECISION GRANTING PETITION
Filed: September 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4208-4153 (NC 28945)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 12, 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) 272-3208.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Chang-Seok Geum	:	
Application No. 10/660,655	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 041993-5220	:	

This is a decision on the petition, filed September 28, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

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 March 7, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2005.

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 facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. ~~10/660,655~~ 10/660,655	Applicant(s) HORI, KOJI	
	Examiner Michael Cleveland	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);.
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *11-17*.
   Claim(s) withdrawn from consideration: *1-10*.

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: _____.

Michael Cleveland
Primary Examiner
Art Unit: 1762

Continuation of 3. NOTE: They do not identify any changes to the claims and therefore raise the question whether an amendment has been filed.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to 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. Applicant merely denies that the references suggest the limitations "turning on or turning off a contact type switch by lifting up the body when the nozzle contacts the substrate" and "lifting up the body at a speed slower than a speed of lowering the body, so that the nozzle is isolated from the substrate". Applicant has not pointed to any alleged errors in the examiner's reasoning, which was clearly laid out as to these limitations on pp. 3-4 of the final Office Action mailed 3/7/2005.

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

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006

COPY MAILED

NOV 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Chang-Seok Geum	:	
Application No. 10/660,655	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 041993-5220	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 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 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.

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 $120 extension of time submitted with the petition on July 26, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1709 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/660,655	09/12/2003	Chang-Seok Geum	041993-5220

CONFIRMATION NO. 1984

POA ACCEPTANCE LETTER

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

OC000000026674660

Date Mailed: 11/08/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2006.

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.

/idingle/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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
10/660,655	09/12/2003	Chang-Seok Geum	041993-5220

CONFIRMATION NO. 1984

POWER OF ATTORNEY NOTICE

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

OC000000026674569

Date Mailed: 11/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2006.

- 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).

/idingle/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Chan-Seok GEUM	:	
Application No. 10/660,655	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. **8734.230/US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 10, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 10, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4231.

The application file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
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)
6988635	2006-01-24	10660656	2003-09-12	1517-1033

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	/Benoit Castel/	Date (YYYY-MM-DD)	2010-04-12
Name	Benoit Castel	Registration Number	35041

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. 6988635
Issue Date: January 24,2006
Application No. 10660656
Filed: September 12,2003
Attorney Docket No. 1517-1033

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 12-12-06

rld
Paper Number _____

In re application of
Hochtritt et al.
Serial No. 10/660,694
Filed: September 12, 2003
For: STACK OF INTERFOLDED ABSORBENT SHEET PRODUCTS

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed September 29, 2006. The petitioner requests that the abandonment, as set forth in the Notice of Abandonment of September 1, 2006 for failure to timely file a proper reply to the Office letter mailed August 30, 2005, be withdrawn since the applicants did timely file a reply.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the Image File Wrapper - (eDan) reveals that applicant properly responded to the final office action mailed on August 30, 2005 by filing a Notice of Appeal on January 30, 2006, which included a 2 month extension of time, and by subsequently filing an Appeal Brief on August 30, 2006, along with a 5 month extension of time.

The application shall be forwarded to the examiner for entry, processing, and consideration of the Appeal Brief filed on August 30, 2006.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/04/2010

Applicant	: Shyue-Ming Jang	: DECISION ON REQUEST FOR
Patent Number	: 7611548	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/660,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1409** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

COPY MAILED

NOV 15 2004

OFFICE OF PETITIONS

In re Application of Chaudhuri et al. Application No. 10/660,742 Filed: September 12, 2003 For: ENRICHED AQUEOUS COMPONENTS OF EMBLICA OFFICINALIS	DECISION GRANTING WITHDRAWAL OF PATENT APPLICATION PUBLICATION

This is a response to the applicants' request made on October 28, 2004, requesting withdrawal of the publication of the above-identified application, which published on July 1, 2004. Applicants in effect, request that the above-identified application be treated as an application that has **not** been published pursuant to 35 U.S.C. § 122(b) on July 1, 2004.

The Office published the above-identified application on July 1, 2004, based on the filing date of the related applications 10/120,156 filed April 11, 2002, 06/395,612 filed July 15, 2002, and 06/424,712 filed November 8, 2002, because the Office mistakenly considered the first sentence of the specification of the above-identified application as a claim to the benefit of the related applications. Since the first sentence of the specification is not a benefit claim to the related applications, the above-identified application should have been published after the expiration of eighteen months from the filing date of the above-identified application, September 12, 2003. Therefore, the Office published the above-identified application on July 1, 2004 in error.

The request is **granted** to the extent indicated below:

(1) The USPTO will withdraw the patent application publication for the above-identified application from its internal and external search databases for patent application publications;

(2) The USPTO's Patent Application Location and Monitoring (PALM) and Patent Application Information Retrieval (PAIR) Systems will be modified to indicate that copies of and access to the above-identified application are **not** to be provided pursuant to 37 CFR 1.14(c)(2) and 1.14(e)(2);

(3) The publication number will be added to a list of withdrawn publications on the USPTO web site; and

(4) The USPTO will notify external database providers and its patent data exchange partners which are intellectual property offices of the withdrawal.

The benefit claim to the related application has been removed from the Office records. The above-identified application has been rescheduled for publication on March 24, 2005.

Telephone inquiries specific to this decision should be directed to Mark Polutta at (571) 272-7709.

Robert W. Bahr
Senior Patent Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: 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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Thomas D. Williams	: DECISION ON REQUEST FOR
Patent Number	: 7631261	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1037** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUL 13 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

In re Patent No. 7,631,261	:	
Issue Date: December 8, 2009	:	
Application No. 10/660,747	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 12101.0001	:	

This is a decision on the "REQUEST UNDER 37 CFR § 3.81(b)", filed January 4, 2010.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a) is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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

COPY MAILED

OCT 23 2006

OFFICE OF PETITIONS

In re Application of HONG, et al. Application No. 10/660,779 Filed: September 12, 2003 Attorney Docket No. 8071-119T (OPP031004US)	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 16, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2814 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

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.*

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Nambi Seshadri	: DECISION ON REQUEST FOR
Patent Number	: 7587318	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB 04 2009

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

In re Application of Werner Honegger Application No. 10/660,783 Filed: September 12, 2003 For: A METHOD AND A DEVICE FOR PROCESSING AND SEPARATING AN IMBRICATE FORMATION OF FLEXIBLE, FLAT OBJECTS	: : : : :	DECISION ON PETITION UNDER 37 CFR §1.144

This is a decision on the petition under 37 CFR 1.144 filed November 23, 2007, for review of a Restriction Requirement mailed January 27, 2006.

The petition is **DENIED**.

This application was filed September 12, 2003. After a Preliminary Amendment was entered on June 14, 2004, this application included claims 1-16 directed toward "A method for processing and separating an imbricate formation of flexible, flat objects during product feed", claims 17-25 directed toward "A guide", and claims 26-31 directed toward "Guiding".

On January 27, 2006, the Examiner mailed a Restriction Requirement between Invention I, recited in claims 1-16, Invention II recited in claims 17-25, and Invention III, recited in claims 26-31. The Examiner alleged that: Inventions I and II are related as process and apparatus for its practice; Inventions II and II are related as process and apparatus for its practice; and III and are related as sub-combinations disclosed as usable together in a single combination.

In response to the Restriction Requirement, on August 4, 2006, Petitioner elected Invention I, but traversed the Restriction Requirement alleging that the subject matter of the three groups overlap, there would be no serious burden on the examiner, and the claims of the application define the same essential characteristics of a single disclosed embodiment. On May 30, 2006, the Examiner issued a Non-final Office Action responding to the Petitioner's remarks

by noting that the searches for the subject matter of the three groups is not the same, stating that it would be a serious burden to search for all of the different claimed inventions, and noting the different embodiments in the application. The Examiner also made the Restriction Requirement Final.

On February 20, 2007, in response to the Examiner's Non-final Office Action, the Petitioner filed an amendment cancelling all the existing claims 1-31 in the application and adding new claims 32-62. On May 22, 2007, the Examiner mailed a Final Office Action withdrawing claims 48-62 because those claims correspond to previously presented claims 17-31 drawn to non-elected inventions.

On November 23, 2007, the Petitioner filed a Petition pursuant to 37 C.F.R. § 1.144 for withdrawal of the Restriction Requirement and examination of all claims 32-62. The Petitioner argues that the Restriction Requirement is improper for the following reasons: since the mandatory fields of search for the Inventions overlap and are substantially coexstensive there would be no serious burden on the Examiner to examine all the claims; the Examiner has not demonstrated that all the claims could not be examined without serious burden; the claims of the application define the same essential characteristics of a single disclosed embodiment; and the Final Office Action withdrawing claims 48-62 did not provide analysis to support the Examiner's conclusion that those claims were drawn to non-elected inventions.

M.P.E.P. § 803.01 provides the criteria for a proper requirement for restriction between patentably distinct inventions. First, the inventions must be independent or distinct as claimed. Second, there would be a serious burden on the examiner if restriction is not required. M.P.E.P. § 806.05 provides guidance for determining whether or not inventions as claimed are distinct. Specifically, M.P.E.P § 806.05(d) states, "two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants." Additionally, M.P.E.P. § 806.05(e) states "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." M.P.E.P. § provides guidance for determining serious burden. M.P.E.P. § 808.02 states that in order to demonstrate a serious burden, the Examiner must show that the inventions have a separate classification, a separate status in the art when they are classifiable together, or a different field of search. Finally, M.P.E.P. § 814 states, "the examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double

patenting rejections under 35 U.S.C. 121." In other words, the restriction requirement must provide guidance for determining whether inventions claimed in a continuing application are consonant with the restriction requirement.

The Restriction Requirement mailed January 27, 2006 demonstrates that the inventions are distinct as claimed. The Requirement states that Inventions I and II are related as process and apparatus for its practice and illustrates how the process as claimed can be practice by another materially different apparatus. The Requirement states that Inventions II and III are related as process and apparatus for its practice and illustrates how the apparatus as claimed can be used to practice another materially different process. Finally, the Requirement states that Inventions III and I are related as subcombinations disclosed as usable together in a single combination and illustrates how they are separately usable. The claimed inventions are distinct.

The Restriction Requirement mailed January 27, 2006 also demonstrates that there would be a serious burden on the Examiner if restriction is not required. The Requirement states that Invention I is a method for processing classified in class 271, subclass 3.01; Invention II is a guide classified in class 271, subclass 264; and Invention III is a guiding method classified in class 271, subclass 264. The Requirement notes that Invention I has a separate classification than Inventions II and III. The Requirement also notes although Inventions II and III are classifiable together, they have acquired a separate status in the art because of their recognized divergent subject matter. Invention II is drawn to an apparatus and Invention III is drawn to a method or process. Petitioner states that the Examiner has not demonstrated that there would be a serious burden to examine all three inventions and a comprehensive search for all the inventions overlaps. However, the Examiner has demonstrated that the criteria for demonstrating serious burden as outlined in M.P.E.P. § 808.02. It would be a serious burden on the Examiner if restriction is not required.

Petitioner states that the application discloses only one embodiment and the claims are merely very broad in scope. However, pages 14 -15 of the specification of the application discuss at least five different embodiments. As such, it cannot be concluded that the claims of this application define the same essential characteristics of a single disclosed embodiment of the invention.

The Restriction Requirement mailed January 27, 2006 provides a clear and detailed record. Based on the Requirement, it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement. Invention I includes those claims drawn to a method for processing and separating imbricate formation of flexible flat objects; Invention II includes those claims drawn to a guide; and Invention III includes those claims drawn to a guiding method. During prosecution of this application, Petitioner cancelled all the original claims 1-31 and added new claims 32-62. In response to Petitioner's

amendment, the Examiner indicated that claims 48-62 were directed toward the non-elected inventions and withdrew them from further consideration. Petitioner states that the Examiner provided no analysis to support withdrawing newly added claims 48-62 as directed to non-elected inventions. However, newly added claims 32-47 are directed toward a method for processing and separating flexible flat objects which is Invention I as outlined in the Restriction Requirement. Also, newly added claims 48-56 are directed toward a guide which is Invention II as outlined in the Restriction Requirement. Finally, claims 57-62 are directed toward a guiding method which is Invention III as outlined in the Restriction Requirement. Therefore, claims consonant with the restriction requirement can be determined. The Restriction Requirement is clear.

For the foregoing reasons, the Restriction Requirement mailed January 27, 2006 and the withdrawal of newly added claims 48-62 are proper.

This application is being forwarded to the examiner of record to continue prosecution.

Any questions regarding this Decision should be directed to Patrick Mackey at (571) 272-6916.

David Bagnell, Acting Director
Technology Center 3600
(571) 272-6999

Pm/snm: 2/3/09

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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7666086	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP / AMAT
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of
Mungekar et al.
Application No.10/660,813
Filed: September 12, 2003
Attorney Docket No. A8067/T51700

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2007, to revive the above-identified application.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed December 26, 2006. 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 March 27, 2007. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

The Office acknowledges receipt of the amendment submitted with the petition.

This application is being forwarded to Technology Center 1700 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

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.go

MAILED

JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STRADLING YOCCA CARLSON & RAUTH
660 NEWPORT CENTER DRIVE
SUITE 1600
P.O. BOX 7680
NEWPORT BEACH, CA 92660

In re Application of
Brent McKay
Application No. 10/660,818
Filed: September 12, 2003

DISPLAY PANELS AND METHODS AND APPARATUS FOR DRIVING THE SAME

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on May 9, 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 met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are 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 A Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: BRENT MCKAY
C/O EMINE TECHNOLOGY, INC.
3901 WESTERLY PLACE, SUITE 110
NEWPORT BEACH, CA 92660

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

Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Huy D. Phan	: DECISION ON REQUEST FOR
Patent Number	: 7569052	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/660,820	: OF WYETH
Filed	: 09/12/2003	:
		:

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

SEP 21 2004

In re Application of John Mahdessian Serial Number: 10/660,823 Filed: September 12, 3003 For: COMPREHENSIVE STAIN REMOVAL KIT AND METHOD WITH SUPER ABSORBENT BACKING MATERIAL	: : : : : : :	PETITION UNDER MPEP 708.02 VIII

This is in response to the petition filed November 6, 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

OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York NY 10036-8403

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David B. Ritchie
Thelen Reid & Priest LLP
P. O. Box 640640
San Jose, CA 95164-0640

COPY MAILED
SEP 01 2004
OFFICE OF PETITIONS

In re Application of :
Christopher J. Diorio, et al. :
Application No. 10/660,829 : NOTICE
Filed: September 11, 2003 :
Attorney Docket No. IMPJ-0058 (033327-000055)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2131 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 19 2004

SANFORD J. ASMAN
570 VININGTON COURT
DUNWOODY, GA 30350

In re Application of :	:
Donald P. Dennis et al.	:
Serial No.: 10/660,832	: PETITION TO MAKE SPECIAL
Filed: September 12, 2003	:
Attorney Docket No.: 170404-1011	:

This is in response to applicants' petition filed July 7, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e. air, water, and soil.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, V. 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 Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

GORDON & RAES LLP
101 WEST BROADWAY, SUITE 1600
SAN DIEGO CA 92101

COPY MAILED

MAR 17 2008

In re Application of	:	
BARNARD, Timothy L.	:	
Application No. 10/660,839	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. **Barnard.1514**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 02, 2008.

The request is **APPROVED**.

A review of the file record indicates that Rudolf Siegesmund: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Rudolf Siegesmund has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant. Applicant is reminded that there is no attorney of record at this time.
There is an outstanding Office action mailed September 27, 2007 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TIMOTHY L. BARNARD**
1245 MORNING VIEW DR. #150
ESCONDIDO, CA 92026

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

STITES & HARBISON, PLLC
400 W MARKET ST.
SUITE 1800
LOUISVILLE KY 40202-3352

COPY MAILED

MAR 1 3 2008

OFFICE OF PETITIONS

In re Application of	:	
C. Steven Smith	:	
Application No. 10/660,841	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. AL130/00AL1-U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply timely to the Final Rejection mailed January 17, 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 $750; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $285 extension of time fee submitted with the petition on July 27, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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. 11/829,111 filed July 27, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

COPY MAILED

NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Junichi Minamino et al	:
Application No. 10/660,851	: DECISION GRANTING PETITION
Filed: September 12, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10407-11U6	:

This is a decision on the petition, filed October 14, 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 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 2655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 27, 2006

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660857 Patent No.: 7,125,248 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: _____

Cris L Rodriguez
SPE

3732
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

Bradley N. Ruben, PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

COPY MAILED

OCT 20 2005

OFFICE OF PETITIONS

In re Application of
Yoshida et al.
Application No. 10/660,875
Filed: September 12, 2003
Attorney Docket No. 114GI-104B

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition fails to comply with item (3) above.

The instant petition does not contain a proper statement of unintentional delay in compliance with 37 CFR 1.78(a)(3)(iii). Before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
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

Bradley N. Ruben, PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

COPY MAILED

NOV 3 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,972,097	:	
Issue Date : December 6, 2005	:	DECISION DISMISSING PETITION
Application No. 10/660,875	:	UNDER 37 CFR 1.78(a)(3)
Filed: September 12, 2003	:	
Attorney Docket No. 114GI-104B	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

In view of the issuance of this application into Patent No. 6,972,097, on December 6, 2005, a completed Certificate of Correction and the $100.00 fee are required as a condition for acceptance of the instant petition under 37 CFR 1.76(a)(3).

Therefore, petitioner must submit a renewed petition under 37 CFR 1.78(a)(3), accompanied by a completed Certificate of Correction (with the $100.00 fee), which includes the benefit claim to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
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

102004

Bradley N. Ruben, PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

In re Application of: George Bonar Serial No.: 10/660,877 Filed: September 12, 2003 For: REMOVABLE, RECHARGEABLE, AND COLOR HEADLAMPS	: : : : : : :	DECISION ON PETION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 17, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration by the sole inventor George Bonar asserting that he is over sixty five (65) years of age along with a copy of his driver's license as proof of his age.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025-1030

MAILED

JAN 1 8 2005

Technology Center 2100

In re Application of:
Michael A. CHACK
Application No. 10/660,881
Filed: September 11, 2003
For: METHOD OF QUEUING REQUESTS TO ACCESS A COMMUNICATIONS NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 28, 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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

COPY MAILED
AUG 2 0 2004
OFFICE OF PETITIONS

In re Application of	:
Horn, Rubley, Lloyd, and Saraf	:
Application No. 10/660,892	: DECISION ACCORDING STATUS
Filed: September 12, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 1945/US/2	:
For: Apparatus, System, and Method	:
for Managing Data and Workflow	:

This is in response to the petition under 37 CFR 1.47(a), filed June 4, 2004. Applicant obtained a four-month extension of time. Therefore, the petition was timely filed.

The petition is granted.

Applicant has shown that Ian G.A. Lloyd cannot be found after diligent efforts were made to locate him to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center 3600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

COPY MAILED

SEP 18 2007

OFFICE OF PETITIONS

Applicant: Charles J. Link
Appl. No.: 10/660,893
Filing Date: 09/12/2003
Title: METHODS AND COMPOSITIONS FOR ELUCIDATING PROTEIN EXPRESSION PROFILES IN CELLS
Attorney Docket No.: 05237.0003.CPUS01
Pub. No.: 2006/0134629 A1
Pub. Date: June 22, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 22, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors because changes in a preliminary amendment filed June 22, 2004 were not included in the publication.

37 CFR 1.221 (b) is applicable "only **when the Office makes a material mistake which is apparent from Office records** .... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor are not Office errors. The text changes in the preliminary amendment received on June 25, 2004 to the specification were not part of the initial application filing. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment in the publication by the Office because patent application

[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).

publications are not required to include preliminary amendments, according to 37 CFR 1.215(a),[2] which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a substitute specification, which incorporated the preliminary amendment. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001). The Office correctly published the application in accordance with 37 CFR 1.215(a).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on August 22, 2006, 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

---

[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

Raj S. Dave
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean, VA 22102

COPY MAILED

MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Xing Su, et al.	:	
Application No. 10/660,902	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/1206447-US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2007.

The request is **NOT APPROVED** because it is 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 April 13, 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: **Darby & Darby**
P.O. Box 5257
New York, NY 10150-5257

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

COPY MAILED

SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin Langhammer	:	
Application No. 10/660,903	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. 306812004900	:	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 9, 2005.

The request is **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 May 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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

Canesta, Inc.
440 No. Wolfe Road, Ste. 101
Sunnyvale CA 94085

COPY MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of
Goktuirk et al.
Application No. 10/660,907
Filed: September 11, 2003
Attorney Docket No. 41

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fee on or before November 6, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 6 2008. Accordingly, the date of abandonment of this application is November 7, 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 $720, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for processing into a patent.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

OCT 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

In re Application of:
MATSUOKA, MASAAKI, et al.
Serial No.: 10/660,912
Filed: September 11, 2003
For: **APPARATUS AND METHOD FOR PROCESSING VIDEO SIGNAL**

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Allowance and Issue Fee(s) Due communication was mailed on May 10, 2005 setting a shortened statutory period of three months for filing the issue fee. No response to the Notice of Allowance and Issue Fee(s) Due was received. A Notice of Abandonment has not been mailed.

A review of the file record indicates that the Notice of Allowance and Issue Fee(s) Due was returned to the Office as undeliverable. Thus, there was obviously an irregularity in mailing of the Office action. On August 12, 2005 a Supplemental Notice of Allowability was mailed. However, a new Notice of Allowance and Issue Fee Due was not mailed.

Although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn. The Notice of Allowance and Issue Fee(s) Due is also hereby vacated.

The application is being forwarded to the Technology Center's technical support staff for preparing and mailing a new Notice of Allowance and Issue Fee(s) Due. The time period for paying the issue fee will run from the mailing date thereof.

Kenneth A. Wieder
Special Programs 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
www.uspto.go

MAIL

AUG 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COLLIER SHANNON SCOTT, PLLC
3050 K STREET, N.W.
SUITE 400
WASHINGTON, DC 20007

In re Application of
David Green
Application No. 10/660,913
Filed: September 12, 2003

For: METHOD AND APPARATUS FOR HUMAN INTERFACE WITH A COMPUTER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 21, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents associated with Customer Number 25243 withdrawal are 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 A Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: DAVID GREEN
462 SPRING GATE BLVD.
THRONHILL, ONTARIO L4J5E1

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. 030105

COUDERT BROTHERS, LLP
333 SOUTH HOPE STREET, 23RD FLOOR
LOS ANGELES, CALIFORNIA 90071

APR 5 2005

In re Application of	:	
WAZANA et al.	:	DECISION ON PETITION
Application No. 10/660,918	:	
Filed: September 13, 2003	:	
Attorney Docket No. 21101-0007	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 25, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **November 13,2007**

TO SPE OF : ART UNIT **3671**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/660,922** Patent No.: **7036440 B1**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

3671
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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/660,934	09/12/2003	2171	375	10125.105002	20	20	3

CONFIRMATION NO. 7113

CORRECTED FILING RECEIPT

OC000000012812973

Steven P. Wigmore, Esq.
KING & SPALDING, LLP
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

Date Mailed: 06/01/2004

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 V. Streepy JR., Ridgway, CO;

Assignment For Published Patent Application

Health Language, Inc., Aurora, CO;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/829,461 04/09/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for interfacing with a multi-level data structure

Preliminary Class
707

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

CHEVRON CORPORATION
P.O. BOX 6006
SAN ROMON, CA 94583-0806

COPY MAILED
JAN 12 2009

In re Application of	:	
Jesse Meyer et al	:	
Application No. 10/660,948	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. T-5979	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

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 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachments: Advisory Action
Notice of Non-Compliant

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/660,948	Applicant(s) MEYER ET AL.	
	Examiner James Goloboy	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jim Goloboy/

Continuation of 3. NOTE: Claim 24 has been amended to include two specific process steps. The amended claim is significantly narrower than claim 1 and therefore requires further search and consideration. The amendment therefore is not entered..

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/660,948	Applicant(s) MEYER ET AL.	
	Examiner James Goloboy	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 01 August 2008 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 _____.
- ☒ 4. Amendments to the claims:
  - ☐ 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: *See Continuation Sheet*.
- ☐ 5. Other (e.g., 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.

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.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, 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. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   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.

/Jim Goloboy/	

Continuation of 4(e) Other: Claims 1 and 5 have not been changed from the previous version of the claims filed 10/23/06. The status of these claims should therefore be "previously presented" and the text should be unmarked. The marked text on claim 24-25 does not accurately reflect the changes from the previous version of the claims.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 13 2009

OFFICE OF PETITIONS

CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

In re Application of	:	
Jesse Meyer	:	
Application No. 10/660,948	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. T-5979	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 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 Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Ecker et al.	:	DECISION ON PETITION
Application No. 10/660,996	:	TO WITHDRAW
Filed: September 12, 2003	:	FROM RECORD
Attorney Docket No. DIBIS-0002US.P4	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 34138 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MEDLEN & CARROLL LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 11/13/08

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/660996 Patent No.: 7255992B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Gary Benzion
SPE

1637
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of Ecker et al. Application No. 10/660,997 Filed: September 12, 2003 Attorney Docket No. IBIS0063-100/DIBIS-0002US.P2)	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys associated with Customer Number 34138 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 applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MEDLEN & CARROLL LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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

PAUL LEGAARD
COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

COPY MAILED
JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
David J. Ecker et al	:	
Application No. 10/660,998	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. DIBIS-0002US.P5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Paul Legaard has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Medlen & Carroll LLP
101 Howard Street
Suite 350
San Francisco, CA 94105

cc: Medlen & Carroll
440 Science Drive
Suite 203
Madison, WI 53711

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of
Patrick Brouhon et al.
Application No. 10/661,000
Filed: September 10, 2003
Attorney Docket No. B-5233 621240-1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed May 27, 2004 (with a four month extension of time request), under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed December 2, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 10, 2003, naming Patrick Brouhon and Ira Goldstein but without a signed declaration. Accordingly, on December 2, 2003, a "Notice of Incomplete Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with an oath or declaration signed by inventor Brouhon on his own behalf and on behalf of non-signing inventor Goldstein. Petitioners seek status under 37 CFR 1.47(a) based on the fact that on more than one occasion email messages with the declaration and power of attorney and assignment papers were mailed to Mr. Goldstein at the last known email address, that telephone messages were left at Mr. Goldstein's last known telephone number and that letters were mailed to Mr. Goldstein at his last known address, but Mr. Goldstein has neither acknowledged receipt of the email messages or the mailings delivered by DHL Courier, returned an executed oath or declaration or returned the telephone calls. Petitioner claims that they have put forth diligent efforts to have the oath or declaration executed and that Mr. Goldstein has refused to comply.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The petition shows that the declaration and the assignment were attached to the email messages sent to Mr. Goldstein but there is nothing to show that the complete application was sent to Mr. Goldstein. Thus, there is no evidence to show that Mr. Goldstein had the benefit of seeing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Patrick Brouhon et al.	:
Application No. 10/661,000	: DECISION ACCORDING STATUS
Filed: September 10, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No: B-5233621240-1	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on September 7, 2004 (certificate of mail date, September 2, 2004).

The petition is **GRANTED**.

The above-identified application was filed on September 10, 2003 naming Patrick Brouhon and Ira Goldstein as joint inventors, but without a signed declaration. A "Notice To File Missing Parts of Application" was mailed December 2, 2003, requiring *inter alia* a properly executed oath or declaration. In response, on May 27, 2004, a petition was filed with a request for an extension of time and a declaration signed only by joint inventor Brouhon. The petition was dismissed in a decision mailed July 2, 2004.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

In response to the decision dismissing the petition filed May 27, 2004, proof that a complete application packet was sent to and received by Mr. Goldstein has been submitted, Further, the statements made by Lola Flores and Suzanne Johnston indicates that no response to the correspondences sent to Mr. Goldstein by email and by courier have been received. Thus, by his actions, it appears that Mr. Goldstein refuses to cooperate with the filing of the above identified application.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Technology Center 2854 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant	: Paul E. McKenney	: DECISION ON REQUEST FOR
Patent Number	: 7587615	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET, SUITE1611
ST. LOUIS, MO 63101

COPY MAILED

JUN 26 2007

OFFICE OF PETITIONS

In re Application of
John A. Moon, et al.
Application No. 10/661,031
Filed: September 12, 2003
Attorney Docket No. IP-0015A-US (SPLG 15US2

ON PETITION

This is a decision in response to the petition, filed February 5, 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 an Office action mailed June 1, 2006. On February 5, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 5, 2007.

It is noted that the petition is not signed by an attorney or agent of record in this application. However, in accordance with 37 CFR 1.34(a), the signature of William J. Barber 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. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Barber desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer, including the requisite fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2872 for appropriate action by the Examiner in the normal course of business on the response filed February 5, 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

cc: WILLIAM J. BARBER
WARE, FRESSOLA, VAN DER SLUYS & ET AL.
BRADFORD GREEN, BLDG. 5
755 MAIN STREET, P.O. BOX 224
MONROE, CT 06468

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

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK NY 10022

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of		
Arbogast et al.	:	DECISION ON
Application No. 10/661,032	:	PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 57637-1185	:	

This is a decision on the petition filed June 7, 2004, requesting that the above-identified application be accorded a filing date of September 11, 2003, instead of the present filing date of March 22, 2004.

As previously stated in the Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice) of January 20, 2004, the above-identified application had been accorded a filing date of September 11, 2003. The Notice indicated, *inter alia*, that Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 were required and that Figure 35 appeared to have been omitted upon filing the application.

In the present petition, applicant admits that Figure 35 was omitted on filing. In response to the Notice to File Missing Parts, on March 22, 2004, applicant submitted Figures 1 through 40R, including omitted Figure 35. Applicant states that the inclusion of Figure 35 does not constitute new matter because it was the same as Figure 34 in the parent application, U.S. Application No. 10/379,287, which was incorporated by reference in the present application.

The Office of Initial Patent Examination changed the application filing date to March 22, 2004, the date of receipt of Figure 35. However, applicant now requests the earlier filing date of September 11, 2003. Figure 35 cannot be granted the filing date of September 11, 2003, as part of the original disclosure because it was not present on filing. However, in view of the incorporation by

reference of the prior application, applicant may file an amendment to the examiner to include Figure 35 without a petition. See MPEP 201.06(c)

Accordingly, the petition is granted to the extent that the application will be accorded a filing date of September 11, 2003, using Figures 1-34 and 36-40R. Figure 35 will NOT be entered at this time.

The $130.00 petition fee will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office notes that applicant submitted a Second Preliminary Amendment to insert a benefit claim to one or more prior copending nonprovisional applications and prior-filed provisional applications pursuant to 37 CFR 1.78(a)(1) and (a)(4). **Because the filing date of the present application has been changed to September 11, 2003, the claim for the benefit of priority to the prior-filed applications is untimely pursuant to 37 CFR 1.78(a)(2)(ii). Accordingly, applicant must submit a petition under 37 CFR 1.78(a)(3) and (a)(6) with the requisite fees.**

The Office of Initial Patent Examination is directed **to correct the filing date to September 11, 2003, using Figures 1-34 and 36-40R. Figure 35 will NOT be entered at this time.** The Office is also directed to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

MAY 12 2005

OFFICE OF PETITIONS

In re Application of	:
Arbogast et al.	:
Application No. 10/661,032	: DECISION GRANTING PETITION
Filed: September 11, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 57637/01185	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate nonprovisional application was filed within twelve months of the filing date of prior-filed provisional Application Nos. 60/440,201 and 60/360,821, filed on January 15, 2003 and March 1, 2002, respectively, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1616 for appropriate action on the amendment submitted November 12, 2004, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 08-04

Paper No:__

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

COPY MAILED
AUG 23 2004
OFFICE OF PETITIONS

In re Application of
Mead, et al.
Application No. 10/661,036
Filed: 12 September, 2003
Attorney Docket No. 112300-1409

DECISION ON PETITION

This is a decision on the petition filed (with fee) on 12 July, 2004, under the 37 C.F.R. §1.53 to accord to the instant application the filing date of 12 September, 2003, as originally accorded upon deposit.

The petition is **GRANTED**.

BACKGROUND

The application was deposited with the Office on 12 September, 2003.

On 26 January, 2004, the Office mailed a Filing Receipt reflecting a filing date of 12 September, 2003.

On 26 January, 2004, the Office also mailed a Notice of Missing Parts of a Nonprovisional Application (the Notice of Missing Parts), indicating, *inter alia*, that:

- a filing date had been granted the application;
- the signed oath/declaration was missing from the application;
- "Figure(s) 10 described in the specification" appeared to have been omitted from the application as deposited.

The Notice reminded Petitioner that the alternatives available with regard to omitted item under the Rules of Practice were to:

- submit a petition (with fee) with evidence of actual deposit of the Figure 10 at the time the application was deposited with the Office; or
- submit the omitted Figure 10 and accept the date of that submission as the filing date of the application.

On 23 February, 2004, Petitioner responded to the Notice of Missing Parts with the oath/declaration and appropriate fees. Petitioner did not include a copy of or take any other action with regard to the omitted item Figure 10.

On 15 March, 2004, the Office mailed a Notice of Omitted Items in a Nonprovisional Application (the Notice of Omitted Items), indicating, *inter alia*, that:

- a filing date had been granted to the application;
- however, "Figure(s) 10 described in the specification" appeared to have been omitted from the application as deposited.

The Notice reminded Petitioner that the alternatives available with regard to omitted items under the Rules of Practice were to:

- submit a petition (with fee) with evidence of actual deposit of the Figure 10 at the time the application was deposited with the Office;
- submit the omitted Figure 10 and accept the date of that submission as the filing date of the application; or
- not file a petition or submit the omitted Figure 10.

On 15 March, 2004, the Office also mailed an "Updated" Filing Receipt reflecting a filing date of 23 February, 2004.

Petitioner supplemented the instant 12 July, 2004, petition with a date-stamped receipt card (see: MPEP §503[1]) and copy of the original filing receipt.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as

ANALYSIS

A review of the application papers reveals that the application was filed and received in the Office on 12 September, 2003, and that at the filing Figure 10 was missing from the application.

Further review of the application reveals that Petitioner neither sought to obtain a 12 September, 2003, filing date for Figure 10, nor submitted a copy of Figure 10 by which to accept the receipt date of such submission as a later filing date than that of 12 September, 2003, as originally accorded. Thus, the change in the filing date by the Office was made in error, as was the mailing by the Office of the "Updated" Filing Receipt.

Therefore, the change in filing date and the 15 March, 2004, issuance of an "Updated" Filing Receipt are vacated, and the originally accorded filing date of 12 September, 2003, is reinstated.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**, and no petition fee is charged. The instant file is released to OIPE for action in accordance with this decision to:

---

evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- correct Office records to reflect that a filing date of 12 September, 2003, is accorded to the instant application as deposited on that date without Figure 10; and

- a corrected filing receipt is issued setting forth the filing date of 12 September, 2003.

In order to advance prudently the prosecution of the instant matter, Petitioner may wish to file a preliminary amendment deleting reference(s) to Figure 10 and request entry of the amendment by the Examiner.

The application is released to OIPE for such processing as is necessary consistent with this decision. Thereafter the file will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior 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

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Randall D. Mead	: DECISION ON REQUEST FOR
Patent Number	: 7585218	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEDIA RIGHTS TECHNOLOGIES C/O
WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Risan et al.	:	ON APPLICATION FOR
Application No. 10/661,047	:	PATENT TERM ADJUSTMENT
Filed: September 12, 2003	:	
Attorney Docket No. MOMI-006	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705 filed June 8, 2009. Applicants request that the determination of patent term adjustment be corrected from eight hundred thirty-seven (837) days to one thousand one hundred seventy-six (1176) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) 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).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,584,353 B2
Serial No. : 10/661,047
Inventor(s) : Risan et al.
Issued : September 1, 2009
Title : **PREVENTING UNAUTHORIZED DISTRIBUTION OF MEDIA CONTENT WITHIN A GLOBAL NETWORK**
Docket No. : **MOMI-006**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents

Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

ecw

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

MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

COPY MAILED
MAR 09 2010

In re Patent No. 7,584,353	:
Risan et al.	: DECISION ON REQUEST FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 10/661,047	: PATENT TERM ADJUSTMENT
Filed: September 12, 2003	: AND NOTICE OF INTENT
Attorney Docket No. MOMI-006	: TO ISSUE CERTIFICATE OF
Title: PREVENTING UNAUTHORIZED	: CORRECTION
DISTRIBUTION OF MEDIA CONTENT	:
WITHIN A GLOBAL NETWORK	:

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-six (1176) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-five (1175) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 13, 2006 and ends on March 6, 2008, the day before the RCE was filed, and is 541 days. See 35 U.S.C. 154(b)(1)(B)(i). The amount of overlap is 203 days. As such, the patent term adjustment is 1175, not 1176 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 application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy-five (1175)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,353 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Risan 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 837 days

Delete the phrase "by 837 days" and insert – by 1175 days--

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

MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

Applicant	: Hank Risan	: DECISION ON REQUEST FOR
Patent Number	: 7584353	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1513** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED
JUL 02 2010
OFFICE OF PETITIONS

In re Patent No. 7,584,353	:
Risan et al.	:VACATED DECISION AND DECISION
Issue Date: September 1, 2009	:ON REQUEST FOR
Application No. 10/661,047	:RECONSIDERATION ON
Filed: September 12, 2003	:PATENT TERM ADJUSTMENT
Attorney Docket No. MOMI-006	:
Title: PREVENTING UNAUTHORIZED	:
DISTRIBUTION OF MEDIA CONTENT	:
WITHIN A GLOBAL NETWORK	:

This decision *sua sponte* **vacates** the Request for Recalculation decision mailed on April 21, 2010. The Office will not issue a second certificate of correction to the extent of 1513 days. The proper determination of 1175 has been granted and the certificate of correction has correctly issued.

FACTS

1. On November 2, 2009, patentee timely submitted a request for reconsideration of patent term adjustment under 37 CFR 1.705(d) seeking 1176 days.

2. On February 20, 2010, patentee submitted a second request with PTO form SB/131 for patent term adjustment despite have timely submitted a request for reconsideration on November 2, 2009.

3. On March 9, 2010, Petitions Attorney Charlema Grant granted-in-part patentee's request for patent term adjustment and awarded 1175 days in response to petition filed on November 2, 2009.

4. On April 13, 2010, the Certificate of Correction awarding 1175 days of patent term was issued.

5. On April 21, 2010, the Office errantly granted additional patent term adjustment to patentee based upon the PTO/SB/131 form request filed on February 20, 2010, however, the Office had already awarded such additional time in a petition decision mailed On March 9, 2010.

DECISION

Upon review of the record, it is determined that no error was found in the petition decision mailed on March 9, 2010.

Accordingly, the decision mailed on April 21, 2010 is hereby **VACATED**.

In light of the issuance of the correct certificate of correction on April 13, 2010, a new certificate of correction is not required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Patentees have one month or thirty (30) days, whichever is longer, to reply if patentee disagrees with this vacatur.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

cc: copy of certificate of correction
copy of adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,353 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Risan 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 837 days

Delete the phrase "by 837 days" and insert – by 1175 days--

PALM INTRANET

Day : Friday
Date: 7/2/2010
Time: 10:32:28

PTA Calculations for Application: 10/661047			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	1210
Issue Date of Patent:	09/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	35
Post-Issue Petitions:	0	Total PTA (days):	1175
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	07/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		338	
90	04/17/2010	PETITION DECISION - GRANTED			
89	03/17/2010	POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION			
88	03/09/2010	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
87	03/09/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
87	03/09/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
86	03/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	338		
86	03/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO			
85	02/20/2010	PETITION ENTERED			
84	11/02/2009	PETITION ENTERED			
83	10/30/2009	POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION DENIED			
82	09/01/2009	RECORDATION OF PATENT GRANT MAILED			
81	08/12/2009	ISSUE NOTIFICATION MAILED			
80.5	03/06/2008	PTA 36 MONTHS	541		
80	09/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
79	07/27/2009	EXPORT TO FINAL DATA CAPTURE			
78	07/23/2009	DISPATCH TO FDC			
77	07/20/2009	MAIL-PETITION DECISION - DISMISSED			
76	07/20/2009	PETITION DECISION - DISMISSED			
75	06/08/2009	PETITION ENTERED			
74	06/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			

73	06/08/2009	ISSUE FEE PAYMENT VERIFIED			
72	06/08/2009	ISSUE FEE PAYMENT RECEIVED			
71	05/15/2009	FINISHED INITIAL DATA CAPTURE			
70	04/21/2009	EXPORT TO INITIAL DATA CAPTURE			
68	04/16/2009	MAIL NOTICE OF ALLOWANCE			
67	04/14/2009	ISSUE REVISION COMPLETED			
66	04/14/2009	DOCUMENT VERIFICATION			
65	04/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	04/14/2009	CASE DOCKETED TO EXAMINER IN GAU			
63	04/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
62	04/07/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
61	04/08/2009	NOTICE OF ALLOWABILITY			
60	12/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	03/23/2009	DATE FORWARDED TO EXAMINER			
58	03/18/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	03/23/2009	DATE FORWARDED TO EXAMINER			
56	03/18/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		27	49
55	03/23/2009	DISPOSAL FOR A RCE / CPA / R129			
54	03/18/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	03/18/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	12/12/2008	REFERENCE CAPTURE ON IDS			
51	12/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	12/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	11/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
48	11/18/2008	FINAL REJECTION			
47	10/13/2008	DATE FORWARDED TO EXAMINER			
46	08/19/2008	RESPONSE AFTER NON-FINAL ACTION			
45	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
44	05/19/2008	MAIL NON-FINAL REJECTION			
43	05/16/2008	NON-FINAL REJECTION			
42	03/25/2008	DATE FORWARDED TO EXAMINER			

41	03/07/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	03/25/2008	DATE FORWARDED TO EXAMINER			
39	03/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		3	34
38	03/25/2008	DISPOSAL FOR A RCE / CPA / R129			
37	03/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	01/29/2008	CORRESPONDENCE ADDRESS CHANGE			
35	01/23/2008	CORRESPONDENCE ADDRESS CHANGE			
34	12/04/2007	MAIL FINAL REJECTION (PTOL - 326)			
33	12/03/2007	FINAL REJECTION			
32	11/19/2007	DATE FORWARDED TO EXAMINER			
31	11/07/2007	RESPONSE AFTER NON-FINAL ACTION		5	29
30	11/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	08/02/2007	MAIL NON-FINAL REJECTION			
28	07/31/2007	NON-FINAL REJECTION			
27	09/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	05/31/2007	DATE FORWARDED TO EXAMINER			
25	05/17/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
24	05/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	04/03/2007	MAIL RESTRICTION REQUIREMENT	669		-1
22	03/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	03/29/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	11/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	07/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	09/22/2005	REFERENCE CAPTURE ON IDS			
17.7	09/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	12/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	07/12/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
13	03/09/2004	APPLICATION RETURN FROM OIPE			
12	03/09/2004	APPLICATION RETURN TO OIPE			

11	03/09/2004	APPLICATION DISPATCHED FROM OIPE			
10	03/09/2004	APPLICATION IS NOW COMPLETE			
9	02/09/2004	ADDITIONAL APPLICATION FILING FEES			
8	02/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/05/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/12/2003	PGPUBS NONPUB REQUEST			
4	11/25/2003	CASE CLASSIFIED BY OIPE			
3	11/25/2003	CLEARED BY OIPE CSR			
2	11/11/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2003	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED

JUN 2 5 2007

OFFICE OF PETITIONS

In re Application of
Abraham Wien et al
Application No. 10/661,053
Filed: September 12, 2003
Attorney Docket No. W1036/20013

DECISION DISMISSING PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed January 11, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the assignee's name is RVAW, INC and that RVAW, INC was incorrectly spelled on the Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to RVAW, INC.

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 records show the $100 certificate of correction fee was received on October 23, 2006. However, there is no indication that the $130 petition fee was submitted. The instant request under 37 CFR 3.81(b) cannot be granted until the $130 petition fee is received.

[1] See Official Gazette of June 22, 2004

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED

JUL 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,080,750	:	
Issue Date: July 25, 2006	:	
Application No. 10/661,053	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. W1036/20013	:	

This is a decision on the renewed petition filed July 16, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name and date 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

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.

MAILED

APR 26 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

Applicant: Pati	: DECISION ON PETITION
Issue Date : Nov. 18, 2008	: 37 CFR 1.705(d)
Application No: 10/661,078	:
Patent No. 7,454,067	: REQUEST FOR RECON
Filed: September 12, 2003	: PTA

This is a decision on the petition filed on January 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred sixty-five (1465) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred sixty-five (1465) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred sixty-five (1465)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner

For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,454,067 B2

DATED : November 18, 2008 **Draft**

INVENTOR(S) : Pati

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 (1465) days

Delete the phrase "by 1039 days" and insert – by 1465 days--

Day : Friday
Date: 4/23/2010

PALM INTRANET

Time: 13:33:21

PTA Calculations for Application: 10/661078			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	1041
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	1465
PTO Delay Adjustment:	426		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		426	
49	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	426		
48	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	426		
43.5	10/29/2008	PTA 36 MONTHS			
43	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
42	10/16/2008	EXPORT TO FINAL DATA CAPTURE			
41	10/15/2008	DISPATCH TO FDC			
40	10/08/2008	RESPONSE TO REASONS FOR ALLOWANCE			
39	10/10/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
38	10/08/2008	ISSUE FEE PAYMENT VERIFIED			
37	10/08/2008	ISSUE FEE PAYMENT RECEIVED			
36	07/21/2008	FINISHED INITIAL DATA CAPTURE			
35	07/14/2008	EXPORT TO INITIAL DATA CAPTURE			
34	07/09/2008	MAIL NOTICE OF ALLOWANCE			
33	07/05/2008	DOCUMENT VERIFICATION			
32	07/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	06/30/2008	NOTICE OF ALLOWABILITY			
27	06/28/2008	DATE FORWARDED TO EXAMINER			
26	06/20/2008	AMENDMENT AFTER FINAL REJECTION			
25	04/23/2008	MAIL FINAL REJECTION (PTOL - 326)	68		22
24	04/22/2008	FINAL REJECTION			
23	02/20/2008	DATE FORWARDED TO EXAMINER			
22	10/15/2007	RESPONSE AFTER NON-FINAL ACTION		2	21
21	07/13/2007	MAIL NON-FINAL REJECTION	973		-1

20	07/07/2007	NON-FINAL REJECTION			
19	09/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	07/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
14.7	09/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/15/2004	MISCELLANEOUS INCOMING LETTER			
12	05/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	05/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	12/08/2003	APPLICATION RETURN FROM OIPE			
9	12/08/2003	APPLICATION RETURN TO OIPE			
8	12/09/2003	APPLICATION IS NOW COMPLETE			
7	12/05/2003	APPLICATION DISPATCHED FROM OIPE			
6	12/08/2003	APPLICATION IS NOW COMPLETE			
5	09/12/2003	PGPUBS NONPUB REQUEST			
4	11/25/2003	CASE CLASSIFIED BY OIPE			
3	11/25/2003	CLEARED BY OIPE CSR			
2	11/11/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2003	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

Day : Friday
Date: 4/23/2010

PALM INTRANET

Time: 13:33:21

PTA Calculations for Application: 10/661078			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	1041
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	1465
PTO Delay Adjustment:	426		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		426	
49	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	426		
48	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	426		
43.5	10/29/2008	PTA 36 MONTHS			
43	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
42	10/16/2008	EXPORT TO FINAL DATA CAPTURE			
41	10/15/2008	DISPATCH TO FDC			
40	10/08/2008	RESPONSE TO REASONS FOR ALLOWANCE			
39	10/10/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
38	10/08/2008	ISSUE FEE PAYMENT VERIFIED			
37	10/08/2008	ISSUE FEE PAYMENT RECEIVED			
36	07/21/2008	FINISHED INITIAL DATA CAPTURE			
35	07/14/2008	EXPORT TO INITIAL DATA CAPTURE			
34	07/09/2008	MAIL NOTICE OF ALLOWANCE			
33	07/05/2008	DOCUMENT VERIFICATION			
32	07/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	06/30/2008	NOTICE OF ALLOWABILITY			
27	06/28/2008	DATE FORWARDED TO EXAMINER			
26	06/20/2008	AMENDMENT AFTER FINAL REJECTION			
25	04/23/2008	MAIL FINAL REJECTION (PTOL - 326)	68		22
24	04/22/2008	FINAL REJECTION			
23	02/20/2008	DATE FORWARDED TO EXAMINER			
22	10/15/2007	RESPONSE AFTER NON-FINAL ACTION		2	21
21	07/13/2007	MAIL NON-FINAL REJECTION	973		-1

20	07/07/2007	NON-FINAL REJECTION			
19	09/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	07/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
14.7	09/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/15/2004	MISCELLANEOUS INCOMING LETTER			
12	05/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	05/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	12/08/2003	APPLICATION RETURN FROM OIPE			
9	12/08/2003	APPLICATION RETURN TO OIPE			
8	12/09/2003	APPLICATION IS NOW COMPLETE			
7	12/05/2003	APPLICATION DISPATCHED FROM OIPE			
6	12/08/2003	APPLICATION IS NOW COMPLETE			
5	09/12/2003	PGPUBS NONPUB REQUEST			
4	11/25/2003	CASE CLASSIFIED BY OIPE			
3	11/25/2003	CLEARED BY OIPE CSR			
2	11/11/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2003	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 062504

JUN 30 2004

DOBRUSIN & THENNISCH PC
401 S. Old Woodward Avenue
Suite 311
Birmingham, MI 48009

In re Application of:	:	
John D. Grace	:	DECISION ON PETITION
Serial No.: 10/661,146	:	TO MAKE SPECIAL
Filed: September 12, 2003	:	
Attorney Docket No.: **1145-001C1**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 12, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Item VI: Energy.

The petition is **DISMISSED**.

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee is required for this petition.

The petition asserts that the present invention materially contributes to the development of energy sources; however, the statement accompanying the petition is not sufficient to explain how the invention materially contributes to (A) or (B), as set forth above. The statement sets for that the present invention enhances the computer-based systems and methods available to geoscientists and engineers in the oil and gas industry who are involved in the exploration for and production of hydrocarbon resources. By advancing the technology used for visualization and analysis of subsurface hydrocarbon reservoirs and equipment (e.g., wells), production costs can be reduced and an increased volume of original hydrocarbons in place in an area can be found and produced. Both effects augment oil and gas supply. No clear correlation is made between the invention and contributing to the discovery or development of energy resources, or the more efficient utilization and conservation of energy resources. The statement merely alleges increased production and reduced cost of known energy resources.

For the above stated reasons, the petition is inadequate to qualify the application for special status under 37 CFR § 1.102(c), and pursuant to M.P.E.P. § 708.02, Item VI. Accordingly, the petition is dismissed.

Should petitioner desire reconsideration, petitioner should supplement this petition by a statement providing the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kirkpatrick & Lockhart Nicholson Graham LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

COPY MAILED

SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Aryan Saed	:	
Application No. 10/661,147	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. 1997.015	:	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 29, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jason P. Fiorillo and attorney(s) and/or agent(s) associated with Customer Number 022832 have been revoked by the assignee of the patent application on January 19,2005. 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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Berkeley Law & Technology Group
1700 NW 167th Place
Suite 240
Beaverton, OR 97006

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
10/661,147	09/12/2003	Aryan Saed	1997.015

CONFIRMATION NO. 6796

OC000000020254117

OC000000020254117

022832
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

Date Mailed: 08/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2006.

- 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).

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/661,147	09/12/2003	Aryan Saed	1997.015

CONFIRMATION NO. 6796

OC000000020254164

OC000000020254164

00043831
BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

Date Mailed: 08/31/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2006.

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.

J. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

COPY MAILED

MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of Jaime **Vargas** :
Application No. 10/661,159 :
Filed: September 12, 2003 : DECISION ON PETITION
Attorney Docket No. ANDOV-001/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office Action mailed November 01, 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 above-identified application became abandoned on February 02, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, Request for Continued examination (RCE), and the $.810.00 filing fee; (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of December 12, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

MAILED

MAR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Alain Delpuch, et al.
Application No. 10/661,160
Filed: September 12, 2003
For: METHOD AND SYSTEM TO GENERATE AND TRANSMIT AUTHORING DATA ASSOCIATED WITH DISTRIBUTED CONTENT, FOR INCLUSION WITHIN AUTHORED CONTENT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on October 13, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are 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 A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:
Tilman Abel et al	:
Application No. 10/661,191	: DECISION GRANTING PETITIONS
Filed: September 12, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2001P03156WOUS	: AND 37 CFR 1.78(a)(3)

This is a decision on the petition, filed May 18, 2005 and supplemented on May 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed May 6, 2005, and supplemented on May 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/02023, filed February 25, 2002.

The petitions are **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)(2)

As requested by petitioner, 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 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]

DISCUSSION OF PETITION UNDER 37 CFR 1.78(a)(3)

A petition for acceptance of a claim for late priority under 37

---

[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).*

CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included as 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 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed

application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at 571-272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3641 for processing of the RCE filed on May 18, 2005, and for appropriate action on the amendment filed May 19, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael B. Brooks
Law Offices of Brooks and Fillbach
5010 N. Pkwy Calabasas, Suite 104
Calabasas, CA 91302-3913

COPY MAILED

SEP 10 2004

OFFICE OF PETITIONS

In re Application of
Brown, Van H.
Application No. 10/661,201
Filed: September 12, 2003
For: Pet Chew Toy

: Decision
: On Access
: Petition

This is in response to the "Petition for Access" filed by Michael Brooks on behalf of Christopher Alan Weinberg which was filed on February 27, 2004. In response to a three week letter mailed March 25, 2004, applicant filed papers on April 15, 2004 opposing the access request.

The petition is **DISMISSED**.

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 U.S.C. § 122. See Manual of Patent Examining Procedure (MPEP), Section 103.

Petitioner states that special circumstances exist in that he is at least an owner of the subject matter in a predecessor provisional application, if not an inventor who should have been named in the above-identified application. As stated by petitioner, the above referenced application claims priority to provisional application no. 60/410,098 which names petitioner as an inventor. As a result of his ownership/inventorship of the '098 application petitioner believes he needs access to the above referenced application to ascertain his rights.

Applicant in opposing access to the above referenced application states that there is no agreement giving petitioner ownership rights in the application. Applicant also states that including petitioner as a coinventor of the '098 application was an error and that he is not a coinventor of the above referenced application.

With respect to ownership, the Office does not make ownership determinations with respect to unnamed inventors in patents or patent applications. Mr. Weinberg is an owner of the '098 application since he has not assigned his rights and because a named inventor is treated as the owner of an application in the absence of an assignment. As to the '201 application, Mr. Weinberg is neither a named inventor nor an assignee.

With respect to the inventorship issue, Mr. Weinberg is a coinventor of the provisional application since applicant has not taken steps to "correct" the inventorship in the provisional application. The inventorship is not automatically carried forward to later filed applications. Access is not

granted to an unnamed coinventor. Furthermore, a third party has no standing to request a change of inventorship or participate in the prosecution of an application even if the inventorship is incorrect. See 37 C.F.R. 1.48. If petitioner believes that the invention claimed in the above referenced application is his own, he can protect his rights by filing a protest in the above referenced application with evidence that the invention therein is by another inventive entity. Petitioner may also file his own patent application naming what he believes to be the correct inventive entity. Inventorship would then be determined in interference proceedings between his application and the '201 application.

With respect to notifying petitioner of the status of the above referenced application, applicant opposes a status request on the basis that he is not a co-owner or inventor. Petitioner however, has a duty under 37 C.F.R. 1.56 to notify the office of any related copending applications. The '098 application naming petitioner as an inventor is related to the '201 application. Since petitioner is advised above to file his own patent application, the requirement constitutes sufficient special circumstances to advise petitioner that the status of the above referenced application is that it is pending.

The request for access is DISMISSED, but maybe renewed if petitioner provides evidence to establish special circumstances that warrant access to the application beyond that currently of record.

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Michael L. Lewis
for Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Schwartz Law Firm, P.C.
South Park Towers
Suite 530
6100 Fairview Road
Charlotte NC 28210

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

CORNING CABLE SYSTEMS LLC
P.O. BOX 489
HICKORY NC 28603

COPY MAILED
JUL 07 2006
OFFICE OF PETITIONS

In re Application of	:	
Jason C. Lail et al	:	
Application No. 10/661,204	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. C0025A	:	

This is a decision on the petition filed June 28, 2006, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on April 6, 2006, with the issue fee being due on or before July 6, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of April 6, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2839.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 17 2007

OFFICE OF PETITIONS

CORNING CABLE SYSTEMS LLC
C/O CORNING INC INTELLECTUAL PROPERTY DEPARTMENT
SP-TI-3-1
CORNING NY 14831

In re Application of	:	
Lail, et al.	:	
Application No. 10/661,204	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. C0025A		

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed November 2, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 21, 2007. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 22, 2007. The Office mailed a Notice of Abandonment on October 17, 2007.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee and publication fees.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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.

LEAPFROG ENTERPRISES, INC.
ATTN: PEPI ROSS
6401 HOLLIS STREET
SUITE 150
EMERYVILLE CA 94608-1070

COPY MAILED

DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Mark Flowers : DECISION ON PETITION
Application No. 10/661,208 :
Filed: September 12, 2003 :
Attorney Docket No. LF-112.01 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINENTIONALLY UNDER 37 CFR 1.137(b) filed October 11, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed March 22, 2007. The Office action set a one-month or thirty days, whichever is longer, period for response, with extensions of time obtainable under 37 CFR 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective April 23, 2007. A courtesy Notice of Abandonment was mailed on October 5, 2007.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Receipt of the Power of Attorney and Correspondence Address Indication Form filed with the petition on October 11, 2007 is acknowledged. As this request filed by the assignee was accompanied by a proper 3.73(b) statement, the revocation of power of attorney and appointment of power of attorney to

Customer No. 20350 is being referred to the Customer Number section for processing. It is noted that there was no request to change the correspondence address.

Technology Center AU 2629 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed October 11, 2007.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT C. KLINGER
JACKSON WALKER LLP
2435 NORTH CENTRAL EXPRESSWAY, SUITE 600
RICHARDSON, TX 75080

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Gilbert McDonald et al :
Application No. 10/661,216 :
Filed: September 12, 2003 :
Attorney Docket No. 101950.00140

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/04/2010

Applicant	: Partha Bhattacharya	: DECISION ON REQUEST FOR
Patent Number	: 7644365	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/661,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

COPY MAILED

APR 07 2004

OFFICE OF PETITIONS

In re Application of :
Lars Severinsson :
Application No. 10/661,244 : DECISION ON PETITION
Filed: September 12, 2003 : UNDER 37 C.F.R. §1.53(e)(2)
Attorney 03370-P0056A :
Title: PARKING LOCK :

This is a decision on the "petition to accord filing date to items alleged omitted," filed February 11, 2004, which is properly treated as a petition under 37 C.F.R. §1.53(e)(2), requesting the application, including Figure eight (8) be accorded a filing date of September 12, 2003 as part of the original disclosure.

The application was deposited on September 12, 2003. However, on December 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure eight. The notice also set forth that an oath or declaration would be required along with the surcharge associated with the late filing of an oath or declaration.

In response, on February 11, 2004, applicants filed the present petition. The petition is further accompanied by a copy of Figure eight, along with a copy of applicants' postcard receipt acknowledging receipt of "7 sheets of drawings" in the United States Patent and Trademark Office (Office) on September 12, 2003. Applicants request that the application, including Figure eight be accorded a filing date of September 12, 2003.

It is noted that six sheets of drawings have been located in the electronic file.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 12, 2003 included Figure eight, and this Figure was subsequently misplaced in the Office.

Therefore, the application, including Figure eight, was complete on filing and entitled to a filing date of September 12, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 12, 2003, using the original application papers filed on that date, as well as Figure eight, re-submitted on petition filed February 11, 2004, and for indication in Office records that seven sheets of drawings were present on filing.

Receipt of a declaration and the surcharge associated with the late filing of an oath or declaration is acknowledged.

Any inquiries related to this decision should be directed to Attorney Paul Shanoski at (703) 305-0011.

Nancy Johnson for

Jay Lucas
Interim Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

JEFFREY D. HARTY
MCKEE VOORHEES & SEASE PLC
801 GRAND AVENUE, SUITE 3200
DES MONIES, IOWA 50309-2721

In re Patent No. 7,171,737	:	
Issue Date: February 6, 2007	:	
Application No. 10/661,253	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. P06384US00	:	

This is a decision on the petition filed April 4, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct 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

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

HERBERT D. HART III
MCANDREWS, HELD & MALLOY, LTD.
SUITE 3400
500 WEST MADISON STREET
CHICAGO, IL 60661

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of :
Benjamin L. Hertzler, et al. :
Application No. 10/661,267 : ON PETITION
Filed: September 12, 2003 :
Attorney Docket No.: 06331 USA :

This is a decision on the petition, filed July18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 27, 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 3751 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

MAILED

AUG 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Snell & Wilmer
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-001

In re application of : **DECISION ON PETITION**
Michael Rivers Jr. et al. : **TO MAKE SPECIAL**
Application No. 10/661,281 : **(INFRINGEMENT)**
Filed: September 12, 2003 :
For: FREE SPINNING RIM FOR MOTORCYCLES

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 12, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 12, 2003 lacks requirements (1) and 2(C), above. In view of these deficiencies, the petition is **DISMISSED**.

Applicant has not authorized or provided payment of the appropriate petition fee. Furthermore, the applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not all that related to the invention.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 8/17/04

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: David A. Cook	: DECISION ON REQUEST FOR
Patent Number	: 7626948	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1357** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

MAIL

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Todd W. Atrim, et al.
Application No. 10/661,338
Filed: September 12, 2005
For: **METHOD FOR PROVIDING TELEPHONE SERVICES FOR COMMERCIAL CLASSES OF SERVICE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed July 15, 2005. No fee is required.

This application was held as abandoned for failure to timely respond to the non-final Office action mailed on August 26, 2005. A Notice of Abandonment was mailed May 19, 2005.

Petitioner alleges that the non-final Office action was not 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. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not fully complied with the requirements set forth above. However, a review of the application record finds an irregularity in the mailing of the Office action. The "Utility Patent Application Transmittal" filed September 12, 2003 provided practitioner's customer number as "2685". Accordingly, the non-final Office action mailed August 26, 2004 was mailed to the Los Angeles, California address associated with customer number "2685. However, a search of PTO customer records finds that the correct customer number for the practitioner that filed the instant application is customer number "26285". Accordingly, there was an irregularlity in mailing of the Office action as a result of an incorrect customer number (e.g. correspondence address) being provided by the practitioner at the time of filing of the application. Therefore, the Office did in fact mail the non-final Office action to an incorrect correspondence address. In view thereof, there was an irregularity in the mailing of the non-final Office action on August 26, 2004, as it was mailed to an incorrect correspondence address. Taken together with the docket records and statements filed with the petition on July 15, 2005 it is deemed that the Office action was not received by either the former practitioner of record or

the current practitioner of record. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Given the original mailing date of the non-final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. The time period for response will be restarted from the mail date of the new Office action.

Krista Zele
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
www.uspto.gov

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

COPY MAILED

SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Missimer, et al.	:	
Application No. 10/661,345	:	DECISION ON PETITION
Filed: April 11, 2003	:	TO WITHDRAW
Attorney Docket No. 003.P001NP	:	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 25, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "we no longer represent this client", does 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP
20333 SH 249
Suite 600
Houston, TX 77070

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

OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Eric C. Saxe	: DECISION ON REQUEST FOR
Patent Number	: 7614056	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1649** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DANIEL C. CRILLY, ESQ.
BRINKLEY, MCNERNEY, MORGAN, SOLOMON & TATUM LLP
200 E. LAS OLAS, BLVD., SUITE 1900
FORT LAUDERDALE, FL 33301

COPY MAILED

AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Kondas, et al.	:	
Application No. 10/661,421	:	DECISION ON PETITION
Filed: September 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7563-03110	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on September 12, 2003, and was pending at the time of filing of the instant petition. 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 required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for 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 applications. 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 matter is being referred to Technology Center Art Unit 3753 for appropriate action on the amendment filed March 22, 2004, 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.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

Brian Hearn, for

Charles A. Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr: 07-05

Paper No: __

ATTENTION: MARA E. LIEPA
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Feldman et al.	:	
Application No. 10/661,437	:	ON PETITION
Filed: 12 September, 2003	:	
Attorney Docket No. 12008.32USC6	:	

This is a decision on the petition filed on 23 May, 2005, considered under 37 C.F.R. §1.53, to obtain a filing date of 12 September, 2003, for Fig(s). 18A-C, as described in the specification.

For the reasons set forth below, the petition is **GRANTED in part** and **DISMISSED in part**.

NOTE: Docketing of Status Inquiries at six- (6-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

BACKGROUND

After this application was deposited on 12 September, 2003:

- Petitioner filed a Status Inquiry on 5 January, 2005;
- on 12 May, 2005, the Office mailed a Notice requesting that the Petitioner submit copies of the drawings deposited with the original application;
- on 13 May, 2005, the Office mailed a Notice of Omitted Items reflecting the absence of Fig. 18A-C, as described in the specification, and indicated that Petitioner's alternatives were to: (a) file a petition if Petitioner contended that the item(s) deemed omitted had been deposited

with the application, (b) supply the omitted item(s) and accept as the filing date that of the new deposit, or (c) file no response and accept the application as deemed by the Office to have been filed;

- on 20 May, 2005, Petitioner filed his response to the request for duplicate drawings;
- on 23 May, 2005, Petitioner filed the instant petition (with fee), *inter alia*, a copy of the date-stamped ("09/12/03") receipt card (see: MPEP §503[1]), a copy of the drawing sheet averred to be Fig. 18A-C submitted with the original 12 September, 2003, deposit, and a request for refund of the petition fee.

Analysis

A search of the official file reveals that:

- on 12 September, 2003, Petitioner deposited the instant application;

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- the date-stamped receipt card evidences the following, in pertinent part:

* * *

X The Application is as follows: 98 pages of specification, 17 claims, 1 page of abstract, 28 sheets of drawings, and 5 pages of oath or declaration.

* * *

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including Fig(s). 18A-C, as described in the specification, was deposited with the Office on 12 September, 2003, and Fig(s). 18A-C, as described in the specification, subsequently were misplaced in the Office.

Moreover, a review of the file indicates that Fig(s). 18A-C is present and received a filing date of 12 September, 2003.

Accordingly, Fig(s). 18A-C are entitled to a filing date with the application as filed.

The Notice of Omitted Items mailed on 13 May, 2005, was sent in error and is hereby vacated to the extent that it stated that pages/sheets–to wit: Fig(s). 18A-C, as described in the specification, had been omitted.

CONCLUSION

The petition is **granted in part to the extent that the Notice of 13 May, 2005, is vacated** and the petition fee waived and refunded via Treasury check; in all other respects the petition is **dismissed as moot** because the requested filing date already is of record in the Office for Fig(s). 18A-C.

This application is released to OIPE for further processing:

- **with a filing date of 12 September, 2003, for the entire application and in particular for the specification (102 pages: description, claims and abstract), and 28 sheets of drawings, including Fig(s). 18A-C, as described in the specification, using:102 pages of specification (description, claims and abstract), and the 28 sheets of drawings (Figs. 1 - 31B), including Fig(s). 18A-C, deposited on 12 September, 2003; and further**

- **with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 12 September, 2003, and reflecting therein that 102 pages of specification (description, claims and abstract) and 28 sheets of drawings were present on filing.**

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 20 2007

OFFICE OF PETITIONS

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

In re Application of	:	
Kyle Gee et al	:	
Application No. 10/661,451	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. IVGN 706	:	

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 non-final Office action mailed June 16, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 17, 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 $2160 extension of time submitted with the petition on February 15, 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 1641 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

DREIER LLP
499 PARK AVE
NEW YORK NY 10022

In re Application of	:	
PACE, Gary W. et al.	:	
Application No. 10/661,458	:	DECISION ON PETITION
Filed: September 10, 2003	:	TO WITHDRAW
Attorney Docket No. **8703-510**	:	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 15, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FOX ROTHSCHILD LLP**
100 PARK AVENUE
SUITE 1500
NEW YORK, NY 10017

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
KLINK, Joachim	:	
Application No. 10/661,548	:	DECISION ON PETITION
Filed: September 15, 2003	:	TO WITHDRAW
Attorney Docket No. **449122038801**	:	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 **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 S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JOACHIM KLINK**
OSTMARKSTRASSE 24
MUENCHEN, GERMANY 81377

cc: **KEVIN SPIVAK**
BELL BOYD & LLOYD LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602

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
10/661,548	09/15/2003	Joachim Klink	449122038801

CONFIRMATION NO. 9062

OC000000024903577

Kevin R. Spivak
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

Date Mailed: 07/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eden

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036-3425

COPY MAILED

OCT 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,919,514 :
Issue Date: July 19, 2005 :
Application No. 10/661,552 :
Filed: September 15, 2003 :
Attorney Docket No. END920000077US2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 21, 2005, to accept a correction to the attorney data on the Letters 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 matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of
Li, Levan, and Monroe
Application No.: 10/661,558
Filed: September 15, 2003
Attorney Docket No: 1696-053002
For: DENATURANT-FREE ELECTROPHORESIS OF BILOGICAL MOLECULES UNDER HIGH TEMPERATURE CONDITIONS

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2004 (certificate of mailing dated August 10, 2004.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on September 15, 2003, and was not accompanied by a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 10, 2004, requiring a properly executed declaration, $130.00 surcharge, and payment of the filing fee. The notice allowed an extendable period for reply of two months from its mailing date. On August 12, 2004, the instant petition was filed along with a request for an extension of time within the fourth-month, and a declaration executed by two of the three named inventors.

Petitioner has shown that inventor Li has constructively refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Deposit account 06-1050 will be charged $130.00 for the instant petition fee.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Quingbo Li
2234 Autumnwood Drive
State College, PA 16803

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Li, Levan, and Monroe :
Application No. 10/661,558 : LETTER
Filed: September 15, 2003 :
Attorney Docket No. 1696-053002 :
For: DENATURANT-FREE ELECTROPHORESIS OF BIOLOGICAL MOLECULES UNDER HIGH TEMPERATURE CONDITIONS

Dear Mr. Li:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

Applicant	: Alexander Manu	: DECISION ON REQUEST FOR
Patent Number	: 7621472	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Susumu Maekawa et al.	:	
Application No. 10/661,572	:	
Filed: September 15, 2003	:	DECISION ON PETITION
Attorney Docket No. 392.1816	:	UNDER 37 C.F.R. § 1.181(A)
Title: APPARATUS FOR DETECTING	:	
OR PREDICTING TOOL BREAKAGE	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 3, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 16, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on January 17, 2007.

With the present petition, Petitioner has alleged that the mailing was not received, and has included a copy of the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing

was not received, that he has searched 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 final action of October 16, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P. O. BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED

MAY 08 2007

OFFICE OF PETITIONS

In re Application of	:
Hiroshi Iida et al	:
Application No. 10/661,598	: DECISION GRANTING PETITION
Filed: September 15, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 117172	:

This is a decision on the petition, filed May 7, 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 May 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2114 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\May10\661598.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.*

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.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of Dorothy D. Lin, Rocco J. Brescia, Jr., Jen-Chieh Chien, Adel F. Fanous, Alan Gin, and Mark R. Dale Application No. 10/661,648 Filed: September 12, 2003 Attorney Docket No. 2875.0120002 Title: HIGH SPEED DATA SERVICE VIA SATELLITE MODEM TERMINATION SYSTEM AND SATELLITE MODEMS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.47(A)

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed January 7, 2004.

This petition is **GRANTED.**

On September 12, 2003, this application was filed, identifying Dorothy D. Lin, Rocco J. Brescia, Jr., Jen-Chieh Chien, Adel F. Fanous, Alan Gin, and Mark R. Dale as the joint inventors. On December 9, 2003, Applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. § 1.63 and the surcharge for the late filing of the same. The notice set a two-month period for reply.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of each non-signing inventor;

(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
  b) proof that each non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

With this petition, Petitioner has asserted that Mr. Dale has refused to join this application[1] and has submitted the petition fee and the surcharge associated with the late submission of this petition, a declaration that has been executed by each of the joint inventors save Mr. Dale, and the last known address of the non-signing inventor.[2]

37 C.F.R. § 1.47(a)(4) requires proof that a complete copy of the application was sent to each non-signing inventor. The Tabandeh declaration of facts that was filed concurrently with this petition suggests, but does not explicitly state, that a complete copy of the application was included in the package that was sent to Mr. Dale's last known address on September 5, 2003.[3] However, Petitioner has included cover letters that were included with mailings that were sent to the last known address of Mr. Dale on September 5, 2003 and September 19, 2003, and each mentions the inclusion of a copy of the application. The Office is therefore construing the language in the Tabandeh declaration of facts to mean that *a complete copy* of Application No. 10/661,648 was sent to the non-signing inventor. Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this statement of facts.

Moreover, it is noted that the statement of the last known address, as well as both letters that were sent to the non-signing inventor contain the zip code 82652, whereas the correct zip code is 92652 (the declaration contains the correct zip code). However, the Tabandeh declaration of facts does not reveal if a response to the first mailing was received, and it sets forth that the second mailing was returned with a notation

1 Petition, page 1.
2 Petition page 2.
3 Tabandeh declaration of facts, paragraph 3.

that reads "unclaimed."[4] As such, this statement of facts is being construed to contain a statement that no response was received to the first mailing, and both mailings were sent to the correct zip code, despite the typographical error which appears both in the statement of the last known address and on each cover letter. Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this statement of facts.

It follows that pursuant to the above paragraphs, Petitioner has established that Mr. Dale was provided with a complete copy of the application, and has established that the non-signing inventor refused to execute the declaration.

Each of the requirements of 37 C.F.R. § 1.47(a) has been satisfied. This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration that was submitted concurrently with this petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] 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

---

4 Tabandeh declaration of facts, paragraph 6.
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark R. Dale
26962 Willow Tree Lane
Laguna Hills, CA 92653

MAILED
JUN 14 2010
OFFICE OF PETITIONS

In re Application of :
Dorothy D. Lin, Rocco J. :
Brescia, Jr., Jen-Chieh :
Chien, Adel F. Fanous, Alan :
Gin, and Mark R. Dale :
Application No. 10/661,648 : LETTER
Filed: September 12, 2003 :
Attorney Docket No. :
2875.0120002 :
Title: HIGH SPEED DATA :
SERVICE VIA SATELLITE MODEM :
TERMINATION SYSTEM AND :
SATELLITE MODEMS :

Dear Mr. Dale:

You are named a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record 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 (571) 272-3225. 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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-06

Paper No:__

NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

COPY MAILED

JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Treybig, et al. :
Application No. 10/661,669 :
Filing Date: 12 September, 2003 :
Attorney Docket No.: 7726-ONES :

DECISION

This is a revised decision on the petition filed on 4 April, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

NOTE:

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

It appears that Petitioner failed to file even a single Status Inquiry in the nearly twenty-eight (28) between date of reply to the Notice of Missing Parts to the filing of the instant petition.

Such inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181 because regulatory requirements require the filing of such a petition within two (2) months of the act complained of, to wit: the abandonment which took place by operation of law after midnight 8 February, 2004.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 8 December, 2003, with reply due absent an extension of time on or before Monday, 9 February, 2004;
- the application went abandoned after midnight 8 February, 2004;
- the Office mailed the Notice of Abandonment on 28 February, 2006;
- on 4 April, 2006, Petitioner filed the instant petition, an averment of timely filing and what are averred to be true copies of an OIPE date-stamped ("DEC 18 2003") receipt card (see: MPEP §503[1]) evidencing Office receipt of, *inter alia*, an oath/declaration (executed), and the executed oath/declaration submitted at that time.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] 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.

of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been

---

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

As of this writing Petitioner appears to have satisfied the requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**, the 28 February, 2006, Notice of Abandonment is vacated and fees are waived.

The instant application is released to OIPE for further processing as is required before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EVEREST INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 708
NORTHBROOK, IL 60065

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of
Brent Anderson
Application No. 10/661,684
Filed: September 11, 2003
Attorney Docket No. 113937-011

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 27, 2006, to revive the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

The application became abandoned for failure to respond to the non-final Office action mailed September 14, 2005. A Notice of Abandonment was mailed on April 21, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

In response to the non-final Office action mailed on September 14, 2005, the Office acknowledges receipt of an amendment to the claims and specification filed on September 27, 2006. However, the Examiner objected to the drawings filed September 11, 2003. Further, the Examiner states that the drawings will not be held in abeyance and that corrected drawings in compliance with 37 CFR 1.121 are required to avoid abandonment of the above application.

It is noted that petitioner states, in the present petition, that replacement drawings are being submitted herewith. Unfortunately, the Office failed to receive those replacement drawings and

the above application will remain abandoned until replacement drawings in compliance with 37 CFR 1.121 have been received.

The Revocation and Power of Attorney filed on September 27, 2006, has been accepted and made of record.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/661,684	09/11/2003	Brent Anderson	113937-011

CONFIRMATION NO. 7356

OC000000026046880

43793
EVEREST INTELLECTUAL PROPERTY LAW GROUP
P. O. BOX 708
NORTHBROOK, IL 60065

Date Mailed: 09/27/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2006.

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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joseph A. Fuchs
Rockey, Depke & Lyons, LLC
233 S. Wacker Drive
Suite 5450, Sears Tower
Chicago, IL 60606-6306

COPY MAILED

MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Brent Anderson	:	
Application No. 10/661,684	:	ON PETITION
Filed: September 11, 2003	:	
Attorney Docket No. 113937-011	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of five sheets of replacement drawings containing Figures 1-7; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3727 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 04/21/2010

Applicant	: Michael Marcovici	: DECISION ON REQUEST FOR
Patent Number	: 7593717	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1720** 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAILED

AUG 17 2004

TECHNOLOGY CENTER 2100

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, Massachusetts 02109

In re Application of :
Laird et al. :
Serial No. 10/661739 : DECISION ON PETITION
Filed: September 12, 2003 :
For: TRAFFIC VIOLATION DETECTION:
AT AN INTERSECTION
EMPLOYING A VIRTUAL
VIOLATION LINE

This is a decision on petition filed May, 3, 2004 under 37 CFR 1.48(c). Petitioner requests the inventorship be corrected. Petitioner alleges unintential ommission of three inventors.

The petition is GRANTED.

37 CFR 1.48(c) requires -

> *Nonprovisional application —inventors added for claims to previously unclaimed subject matter.* If a nonprovisional application discloses unclaimed subject matter by an inventor or inventors not named in the application, the application may be amended to add claims to the subject matter and name the correct inventors for the application. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petitioner provides (1) a request, (2) a statement from each inventor to be added, (3) a new oath/declaration executed by all actual inventors, (4) the processing fee, and (5) the consent of the assignee, as required.

The petition is GRANTED.

The application will be for correction of the inventorship. The inventorship will then be -

Laird, Mark; Glier, Michael; Tinnemeier, Michael; Small, Steven; Sybel, Randall; and Reilly, Douglas.

Kevin Teska
Supervisory Patent Examiner
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

COPY MAILED

JUL 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Simon Tong, et al.	:	
Application No. 10/661,741	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. 53051/288305	:	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 20 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kilpatrick Stockton, LLP has been revoked by the assignee of the patent application on March 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARDSON, PC
60 SOUTH SIXTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

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
10/661,741	09/12/2003	Simon Tong	53051/288305

CONFIRMATION NO. 8303

OC000000024856013

40400
PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

Date Mailed: 07/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

COPY MAILED

JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Simon Tong	:	
Application No. 10/661,748	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. 53051/288069	:	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 20, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kilpatrick Stockton LLP has been revoked by the assignee of the patent application on March 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 9, 2007 that requires a reply by the applicant.

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
10/661,748	09/12/2003	Simon Tong	53051/288069

CONFIRMATION NO. 8166

OC000000023311861

John S. Pratt, Esq.
Kilpatrick Stockton LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309

Date Mailed: 04/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARSON P.C.
60 SOUTH SIXTH STREET,
SUITE 3300
MINNEAPOLIS, MN 55402

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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Tong et al.	:	
Application No. 10/661,748	:	LETTER REGARDING
Filed: 09/12/2003	:	PATENT TERM ADJUSTMENT
Docket No. 16113-323001/GP-133-00-US	:	

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 24, 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 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 **258 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 10, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 260 days. On December 24, 2008, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicants state that it appears that the PTA Calculations in PAIR incorrectly reflects the date of receipt of the Request for Continued Examination (RCE) as December 22, 2006, instead of December 21, 2006. Additionally, applicants

aver that the PTA Calculations in PAIR incorrectly show the date of receipt of the reply to the nonfinal Office action mailed on October 9, 2007, as March 9, 2008, instead of March 10, 2008.

A review of the application history reveals that applicants are correct. The Office incorrectly entered the date of receipt of the RCE in the PTA Calculations as December 22, 2006, instead of December 21, 2006.[1] Thus, the date of December 21, 2006, not December 22, 2006, should have been used for the purpose of calculating patent term adjustment. It is noted that after applicants filed the RCE, they submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on January 23, 2007. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed January 23, 2007, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 33 days (not 32 days) pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, December 22, 2006, and ending on the date that the IDS was filed, January 23, 2007. Accordingly, the period of reduction of 32 days will be removed and a period of reduction of 33 days will be entered.

---

[1] It is noted that the Image File Wrapper for the instant application indicates the date of receipt of the RCE as December 21, 2006.

[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Similarly, the Office incorrectly entered the date of receipt of the reply to the nonfinal Office action of October 9, 2007, in the PTA Calculations as March 9, 2008, instead of March 10, 2008.[3] Thus, the date of March 10, 2008, not March 9, 2008, should have been used for the purpose of calculating patent term adjustment. In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should have been reduced by 61 days (not 60 days), counting the number of days in the period beginning on the day after the date that is three months after the mailing date of the nonfinal Office action, January 10, 2008, and ending on the date the reply was filed, March 10, 2008. Accordingly, the period of reduction of 60 days will be removed and a period of reduction of 61 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **258 days** (501 days of Office delay - 243 days of applicant delay).

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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.

---

[3] It is noted that the Image File Wrapper for the instant application indicates the date of receipt of the reply to the nonfinal Office action as March 10, 2008.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PALM INTRANET

Day : Monday
Date: 2/9/2009
Time: 16:55:35

PTA Calculations for Application: 10/661748			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	501
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	241
Post-Issue Petitions:	0	Total PTA (days):	258
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		33	
102	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	32		
101	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
100	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	60		
87	10/10/2008	MAIL NOTICE OF ALLOWANCE			
86	10/08/2008	ISSUE REVISION COMPLETED			
85	10/08/2008	DOCUMENT VERIFICATION			
84	10/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
83	09/30/2008	NOTICE OF ALLOWABILITY			
80	09/25/2008	DATE FORWARDED TO EXAMINER			
79	09/23/2008	AMENDMENT AFTER FINAL REJECTION			
78	06/23/2008	MAIL FINAL REJECTION (PTOL - 326)			
77	06/20/2008	FINAL REJECTION			
76	04/16/2008	DATE FORWARDED TO EXAMINER			
75	03/09/2008	RESPONSE AFTER NON-FINAL ACTION		60	71
74	03/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
73	02/20/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
72	02/13/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
71	10/09/2007	MAIL NON-FINAL REJECTION			
70	09/28/2007	NON-FINAL REJECTION			
69	07/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	08/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
67	07/19/2007	DATE FORWARDED TO EXAMINER			

66	07/18/2007	RESPONSE AFTER NON-FINAL ACTION		9	58
65	07/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	07/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	06/15/2007	MAIL-PETITION DECISION - DISMISSED			
62	06/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	06/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	04/09/2007	CORRESPONDENCE ADDRESS CHANGE			
59	04/10/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	04/09/2007	MAIL NON-FINAL REJECTION			
57	04/02/2007	NON-FINAL REJECTION			
56	01/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	02/19/2007	PETITION ENTERED			
54	01/23/2007	REFERENCE CAPTURE ON IDS			
53.7	01/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		32	49
53	01/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	02/09/2007	DATE FORWARDED TO EXAMINER			
51	12/22/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	02/09/2007	DATE FORWARDED TO EXAMINER			
49	12/22/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	02/09/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	12/21/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	12/07/2006	MAIL ADVISORY ACTION (PTOL - 303)			
45	12/06/2006	ADVISORY ACTION (PTOL-303)			
44	12/04/2006	DATE FORWARDED TO EXAMINER			
43	11/21/2006	AMENDMENT AFTER FINAL REJECTION			
42	11/16/2006	MAIL ADVISORY ACTION (PTOL - 303)			
41	11/13/2006	ADVISORY ACTION (PTOL-303)			
40	11/04/2006	DATE FORWARDED TO EXAMINER			
39	10/26/2006	AMENDMENT AFTER FINAL REJECTION			

38	11/03/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
37	10/31/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	09/22/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	09/18/2006	FINAL REJECTION			
34	06/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/08/2006	REFERENCE CAPTURE ON IDS			
31.7	08/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		47	29
31	08/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	07/07/2006	DATE FORWARDED TO EXAMINER			
29	06/22/2006	RESPONSE AFTER NON-FINAL ACTION			
28.7	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/28/2006	MAIL NON-FINAL REJECTION	501		-1
26	03/23/2006	NON-FINAL REJECTION			
25	03/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	08/05/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	02/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	03/03/2005	REFERENCE CAPTURE ON IDS			
20.7	03/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	02/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	08/05/2004	REFERENCE CAPTURE ON IDS			
16.7	08/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
15	02/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	09/13/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
13	06/25/2004	APPLICATION RETURN FROM OIPE			
12	06/25/2004	APPLICATION RETURN TO OIPE			
11	06/25/2004	APPLICATION DISPATCHED FROM OIPE			
10	06/25/2004	APPLICATION IS NOW COMPLETE			
9	06/10/2004	ADDITIONAL APPLICATION FILING FEES		93	7
8	06/10/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/09/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/12/2003	PGPUBS NONPUB REQUEST			
4	11/25/2003	CASE CLASSIFIED BY OIPE			
3	11/25/2003	CLEARED BY OIPE CSR			
2	11/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2003	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 17 2005

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:
Kingsman et al.	:
Serial No.: 10/661,761	: PETITION TO MAKE SPECIAL
Filed: September 11, 2003	:
Attorney Docket No.: 674523-2005.2	:

This is in response to applicants' petition filed June 6, 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, VII. 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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ropes & Gray LLP
Patent Docketing 39/361
1211 Avenue of the Americas
New York, NY 10036-8704

COPY MAILED

JUL 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Timothy H. Heaton	:	
Application No. 10/661,763	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. 03-1072	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Ropes & Gray LLP has been revoked by the assignee of the patent application on April 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dean P. Alderucci**
Cantor Fitzgerald, L.P.
110 East 59th Street (6th Floor)
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/661,764	09/12/2003	2131	750	15436.252.7.1	12	20	3

CONFIRMATION NO. 8157

CORRECTED FILING RECEIPT

OC000000015181690

22913
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 02/15/2005

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 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)

Steve Klotz, Austin, TX;
Jason David Mann, Austin, TX;
Timothy Lane McDaniel, Austin, TX;

Assignment For Published Patent Application

FINISAR CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number **022913**.

Domestic Priority data as claimed by applicant

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 US10/661,764

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Network analysis graphical user interface

Preliminary Class

713

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of

KINDERMANN, Robert
Application No. 10/661,766
Filed: September 15, 2003
Attorney Docket No. **449122064200**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 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 S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed June 14, 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: **ROBERT KINDERMANN**
MATHIAS WAGNER G. 16/46
WIEN, AUSTRIA 1210

cc: **BELL, BOYD & LLOYD LLC**
ATTN: KEVIN R. SPIVAK
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602-4207

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
10/661,766	09/15/2003	Robert Kindermann	449122064200

CONFIRMATION NO. 7271

OC000000024922958

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

OIPE IAP32
MAY 2 5 2007
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/661,766
	Filing Date	September 15, 2003
	First Named Inventor	Robert KINDERMANN
	Art Unit	2142
	Examiner Name	A. T. Caldwell
	Attorney Docket Number	449122064200

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 25227

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:
Attorneys of record have been discharged by the client in accordance with 37 CFR § 10.40(b)4.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Bell, Boyd & Lloyd LLC Attn.: Kevin R. Spivak				
Address	70 West Madison Street, Suite 3100				
City	Chicago	State	Illinois	Zip	60602-4207
Country	USA				
Telephone	312-372-1121	Email	attorneys@bellboyd.com		
Signature	Deborah S Gladstein				
Name	Deborah S. Gladstein	Registration No.	43,636		
Date	May 24, 2007	Telephone No.	(703) 760-7753		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

va-205093

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

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

Mail Date: 04/20/2010

Applicant	: Yoav Hollander	: DECISION ON REQUEST FOR
Patent Number	: 7665067	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

Mail Date: 04/20/2010

Applicant	: Yoav Hollander	: DECISION ON REQUEST FOR
Patent Number	: 7665067	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEP 23 2004

In re Application of	:	
Bernard Leung	:	
Serial No. 10/661,791	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO MAKE SPECIAL
For: INSULATING SLEEVE	:	

Applicant's petition, filed September 12, 2003, 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

Morey B. Wildes
Davidson, Davidson & Kappel, LLC
483 Seventh Avenue, 14th Floor
New York, NY 10018

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Thomas D. Lovett	: DECISION ON REQUEST FOR
Patent Number	: 7594080	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1331** 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.:20090603

DATE : June 04, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7383269

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:

Certificate of Correction filed 4/28/09.

/WAYNE R YOUNG/
Supervisory Patent Examiner.Art Unit 2627

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

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Magnus Hook	: DECISION ON REQUEST FOR
Patent Number	: 7615616	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/661,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **590** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Ephraim Starr, Division General Counsel,
Honeywell International, Inc.
Suite #200
23326 Hawthorne Boulevard
Torrance CA 90505

COPY MAILED
APR 01 2004
OFFICE OF PETITIONS

In re Application of	:	
Steven Don Arnold et al.	:	
Application No. 10/661,810	:	DECISION ON PETITION UNDER
Filing Date: September 12, 2003	:	37 C.F.R. §1.10(c)
Attorney Docket No. H0005335	:	
Title: HIGH RESPONSE, COMPACT	:	
TURBOCHARGER	:	

This is a decision on the "Request for Corrected Filing Receipt," which is properly treated as a petition under 37 C.F.R. §1.10(c), filed January 26, 2004, requesting the according of a filing date of September 12, 2003 to application number 10/661,810.

The application was deposited on September 12, 2003. On December 10, 2003, the Office mailed the filing receipt which Petitioner has included with the instant petition, indicating that application number 10/661,810 had been accorded a filing date of September 13, 2003.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV272827437US[1].

Petitioner has alleged that the application was deposited on September 12, 2003, and the Patent Office has incorrectly assigned a filing date of September 13, 2003 to the instant application.

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line. A copy of the latter search result is enclosed.

Although the application received a filing date of September 13, 2003, the evidence is convincing that the application papers were filed on September 12, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of September 12, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 12, 2003, as well as the mailing of a corrected filing receipt.

Receipt of the basic filing fee, the fee for independent claims in excess of three, a declaration, and the surcharge associated with the late filing of an oath or declaration is acknowledged.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Encl.

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.
10/661,812	09/15/2003	Martin Heeney	MERCK-2740	7389

23599 7590 02/27/2008
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER
TRUONG, DUC

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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.go

caf

Mailed: 2-27-08

In re application of :
Martin HEENEY et al. :
Serial No. 10/661,812 :
Filed: September 15, 2003 :
For: MONO-, OLIGO-, and POLY(3-ALKYNYLTHIOPHENES) :
AND THEIR USE AS CHARGE TRANSPORT :
MATERIALS :

DECISION ON PETITION

This is a decision on the PETITION TO COMMISSIONER UNDER 37 CFR §1.181 FOR WITHDRAWL OF RESTRICTION REQUIREMENT and FOR MODIFICATION OF THE IMPLEMENTATION OF THE ELECTION OF SPECIES REQUIREMENT.

On July 8, 2005, an office action was mailed containing a restriction requirement. The examiner required restriction between subcombination Group I (claims 1-15) and combination Group II (claims 16-27). The examiner further required restriction between the species recited in claim 14. On August 8, 2005 a response to the restriction requirement was submitted and species for examination were elected with traverse. On September 15, 2005 an office action was mailed. In the Office Action of September 15, 2005 the examiner also withdrew claims 7-9, 12 and 13 from consideration. A final Office Action was mailed on February 2, 2006.

On June 2, 2006 the instant petition was filed to formally request that the restriction requirement be withdrawn and that the Election of species requirement be properly applied to claims 9, 12 and 13. A duplicate petition was filed on November 30, 2007

DECISION

In the restriction requirement mailed June 8, 2005, the examiner identified Groups I and II as subcombination and combination respectively.
MPEP 806.05(c) states:

> **806.05(c) [R-5] Criteria of Distinctness Between Combination and Subcombination**
> To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a serious search burden if restriction were not required as evidenced by separate classification, status, or field of search. See MPEP § 808.02.
> The inventions are distinct if it can be shown that a combination as claimed:
> (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
> (B) the subcombination can be shown to have utility either by itself or in another materially different combination.

When these factors cannot be shown, such inventions are not distinct.

In the instant application, several claims from the group II combination are dependent upon claim 1 which is included with the subcombination. For example, claim 19 recites:

19. A semiconductor or charge transport material, comprising a monomer, oligomer or polymer of claim 1.

Therefor it is clear that claim 19 (combination) requires the particulars of claim 1 (subcombination). In the original restriction requirement, the examiner stated "the combination as claimed does not require the particulars of the subcombination as claimed because the composition of Group I does not require the other components besides said monomer, oligomer or polymer of Group I." As the petition states, this argument incorrectly treats the monomer, oligomer or polymer as the combination. The restriction between Groups I and II as subcombination-combination is improper for this reason.

In the nonfinal rejection of September 15, 2005, the examiner withdrew claims 7-9, 12 and 13 from consideration as not being drawn to the elected species. No reason was given. Applicants traversed this holding in the response of December 1, 2005 providing reasons as to why claims 9, 12 and 13 read on the elected species. In the final rejection, the examiner responded to these arguments by stating:

"This is not convinced since the content of these claims, R4 and R5 denote P-Sp is optional component and is not required."

This statement appears to be incorrect as claim 9 requires one or both of R4 or R5 to be P-Sp. Further, the statement does not appear to clearly establish that claims 9, 12 and 13 do not belong to the elected species.

Accordingly, the restriction requirement as set forth in the office action of July 8, 2005 is improper and should be withdrawn. Further, claims 9, 12 and 13 should be examined with the elected species. The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and to examine claims 9, 12 and 13 with the elected species.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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

Harold C. Moore
Maginot, Moore & Bowman
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115

COPY MAILED

FEB 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Burns et al.	:	
Application No. 10/661,821	:	
Filed: September 11, 2003	:	ON PETITION
Attorney Docket Number:	:	
1505-0158	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed November 23, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed December 9, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 10, 2004. A Notice of Abandonment was mailed November 8, 2004.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

The Oath/declaration has been entered and made of record.

This application is being referred to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Walter E.Goettel et al	:	
Application No. 10/661,843	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 4277-044739	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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. If 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 submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 9, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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

ALLIANCE GAMING CORPORATION
6601 S. BERMUDA ROAD
LAS VEGAS NV 89119

COPY MAILED

FEB 17 2006

OFFICE OF PETITIONS

In re Application of Robert A Luciano Jr. Application No. 10/661,845 Filed: September 12, 2003 Attorney Docket No.VOU-98-002-CON.1	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 8, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3713.

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
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of	:	
Pierre, et al.	:	
Application No. 10/661,846	:	DECISION ON PETITION
Filed: September 12, 2003	:	TO WITHDRAW
Attorney Docket No. ABTT-0351/B020670	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 2006

The request is **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, "client's legal department will prosecute this application", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ABB INC.
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

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.: 08-07

Paper No:__

COPY MAILED

SEP 04 2007

OFFICE OF PETITIONS

PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS MO 63102

In re Application of	:	
Boardman, et al.	:	DECISION
Application No. 10/661,847	:	
Filing Date: 12 September, 2003	:	
Attorney Docket No.: 24-AT-135243	:	

This is a decision on the petition filed on 13 November, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

---

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 27 April, 2006, with reply due absent extension of time on or before 27 July, 2006;
- the application went abandoned by operation of law after midnight 27 July, 2006;
- the Office mailed the Notice of Abandonment on 6 November, 2006;
- on 13 November, 2006, Petitioner filed the instant petition, with, *inter alia*, an averment as to reply, a copy thereof, and a date-stamped ("OCT 27 2006") receipt card (see: MPEP §503[2]) indicating receipt by the Office of a Request for Continued Examination, fee, and pointing to the previously-filed after-final amendment as the submission under 37 C.F.R. §1.114, and request and fee for extension of time to make timely the filing.

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office 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.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

---

[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] 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.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been

---

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirement described above.

CONCLUSION

Because Petitioner appears to have carried his burden in the instant matter, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 6 November, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) 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

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025

COPY MAILED
SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
McCullagh, et al.	:	
Application No. 10/661,877	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. 005306.P108	:	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 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/661,877	09/11/2003	Peter McCullagh	005306.P108

CONFIRMATION NO. 8772

OC000000020498004

OC000000020498004

Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Date Mailed: 09/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-04-08

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/661879** Patent No.: **7299029**

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: _____

_____ **SPE** _____ **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

DUANE MORRIS LLP
SUITE 700
1667 K STREET NW
WASHINGTON DC 20006

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Chris Quinlan	:	
Application No. 10/661,886	:	DECISION ON PETITION
Filed: September 15, 2002	:	UNDER 37 CFR 1.53(e)
Attorney Docket No. PNM01 010 CONT	:	

This is a decision on the petition under 37 CFR 1.53(e), filed January 28, 2004, requesting that this application be accorded a filing date of September 15, 2003.

The petition under 37 CFR 1.53(e) is **granted**.

The application was deposited on September 15, 2003. However, on December 15, 2003, the Office of Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating that the application was deposited without drawings and that the filing date of the application will be the date of receipt of the drawings. The Notice also required the submission of an executed oath or declaration covering the items stated to be missing.

In response, the present petition was filed. The petition argues that the drawings stated to have been missing by the Notice of December 15, 2003, were in fact received in the USPTO on filing on September 15, 2003. In support of this assertion, petitioner has supplied a stamped postcard which acknowledges receipt by the USPTO on September 15, 2003, of, *inter alia*, 5 sheets of drawings.

The drawings stated to have been submitted on filing could not be found in the records of the USPTO. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, the evidence supports the fact that 5 sheets of drawings were in fact present on filing.

Nevertheless, the Notice of December 15, 2003, was improper for the following reason. This application contained, on filing, at least one method or process claim, which normally does not require a drawing. It is USPTO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g). Under that procedure, rather than mailing a Notice of Incomplete Nonprovisional Application indicating that the lack of drawings precluded the grant of a filing date, the USPTO should have accorded the application papers a filing date of September 15, 2003, and sent a Notice of Omitted Items. Accordingly, the Notice mailed September 15, 2003, insofar as not granting the application a filing date, was mailed in error and is vacated.

After this decision is mailed, the $130 petition fee will be credited to counsel's Deposit Account No. 04-1679.

This application is being referred to the Office of Initial Patent Examination Division for processing with an indication that 5 sheets of drawings containing Figures 1-6 were present on filing on September 15, 2003, and using the 5 sheets of drawings filed on January 28, 2004.

Any inquiries concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2-12-04 | 2 Serial/Patent # 10/661886

	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		1-28-04	$ 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 04--16799

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

No fee required for pet for filing date

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: F Hicks TITLE: Pets Ex'N

SIGNATURE: F Hicks PHONE: 305-8680

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 2/13/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	DECISION ON PETITION
Application No. 10/661,912	:	TO WITHDRAW
Filed: September 12, 2003	:	FROM RECORD
Attorney Docket No. 163-1324USI1	:	

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. Sarah M. Monfeldt has been withdrawn as attorney of record. All other attorneys/agents remain of record.

The correspondence address will remain the same.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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)
6987353	2006-01-17	10661931	2003-09-15	

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/Dr Hisham Menkara/	Date (YYYY-MM-DD)	2010-03-04
Name	Hisham Menkara		

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. 6987353
Issue Date: January 17,2006
Application No. 10661931
Filed: September 15,2003
Attorney Docket No. 090503

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 4,2010 ,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 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JASON P. FIORILLO
K & L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Birkett et al.	:	DECISION ON PETITION
Application No. 10/661,943	:	TO WITHDRAW
Filed: September 12, 2003	:	FROM RECORD
Attorney Docket No. 9931-0040	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 13, 2007 the power of attorney 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: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

Kirkpatrick & Lockhart Nicholson Graham LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

In re Application of

Neil Birkett
Application No. 10/661,945
Filed: September 12, 2003
Attorney Docket No. 13587.40

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 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, **application has been sold to a third party**, do not meet any the conditions set forth in 37 CFR 10.40.

Additionally, the power of attorney filed January 23, 2006 is not accepted because the submission of documentary evidence of the chain of title, e.g. copy of the assignment, under 37 CFR 3.73(b)(1)(i) requires a statement affirming 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. See PTO/SB/96 enclosed.

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.

Denise Pothier
Petitions Examiner
Office of Petitions

Enc: PTO/SB/96

cc : Berkeley Law & Technology Group
1700 NW 167th Place
Suite 240
Beaverton, OR 97006

PTO/SB/96 (12-05)
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.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/661969** Patent No.: **6932465**

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE

2853
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

NOV 0 9 2005

TECHNOLOGY CENTER 3600

Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis MO 63102

In re Application of	:	
Ronald R. Morlen	:	DECISION ON PETITION
Application No. 10/661,981	:	TO WITHDRAW THE
Filed: September 12, 2003	:	HOLDING OF ABANDONMENT
For: FISHING LURE	:	

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 18, 2005. there is no fee for this petition.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (Final rejection) mailed to applicant on December 17, 2004. A Notice of Abandonment was mailed on July 22, 2005.

Applicant's petition indicates that the Office action was never received. In support thereof applicant has provided a statement that the Office action was not received, a statement that the file jacket and docket records have been examined and do not contain the Final Office Action dated January 17, 2005, and a copy of the Armstrong Teasdale docket report.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around March 17, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. In regards to requirement (2), petitioner has inadvertently misidentified the mailing date of the Office Action in question. In regards to requirement (3), a complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around March 17, 2005 is required.

Petitioner's evidence of non-receipt of the Office action mailed December 17, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/rjc 10/15/05

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 Jun-06

PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS MO 63102

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald Roger I. Morlen	:	DECISION ON PETITION TO
Application No. 10/661,981	:	WITHDRAW HOLDING OF
Filed: 12 September, 2003	:	ABANDONMENT
For: FISHING LURE	:	

This is a decision on the petition filed on 9 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 17 December, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 22 July, 2005. A petition to withdraw the holding of abandonment was filed on 18 August, 2005, and was dismissed on 9 November, 2005.

Petitioner asserts that the final Office action was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner

stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioner has presented a statement by registered patent attorney Patrick W. Rasche, stating that after examining the file jacket and docket records for this application, the final Office action was never received. A copy of the docket report is referenced in the petition and enclosed therewith.

The petitioners have made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 3600 technical support staff for remailing of the Office action mailed 17 December, 2004. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 0 6 2007

OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:
Sah, et al.	: DECISION ON APPLICATION
Application No. 10/661,984	: FOR PATENT TERM ADJUSTMENT
Filed: September 12, 2003	:
Atty. Dkt. No.: 13751-056001	:

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)" filed December 19, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 467 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 467 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 418 days, as indicated on the Determination of Patent Term Adjustment mailed September 19, 2006, to an adjustment of 467 days. Applicants argue that the reduction of 79 days is improper because the supplemental response to the non-final Office action submitted July 7, 2006 was requested by the examiner, and, thus, not a supplemental response within the meaning of 37 CFR 1.704(c)(8). Applicants further argue that the supplemental response was submitted by USPS Express Mail in accordance with 37 CFR 1.10 on July 5, 2006, rather than July 7, 2006, as indicated in the record.

A review of the record reveals that a supplemental reply to the non-final Office action mailed February 22, 2006 was received on July 7, 2006. As indicated by applicants, the supplemental reply was deposited July 5, 2006 via USPS Express Mail in accordance with 37 CFR 1.10. Accordingly, the "date-in" on the USPS Express Mail label, or, July 5, 2006, is deemed the date of receipt of the reply.

Applicants argue that the supplemental reply was requested by the examiner of record, and, thus, is not a supplemental reply within the meaning of 37 CFR 1.704(c)(8).

While a review of the record does not reveal an examiner interview summary to this effect, applicants' arguments have been reviewed and found convincing. Accordingly, the submission of the supplemental reply on July 5, 2006 is not deemed a failure to engage in reasonable efforts to conclude prosecution, the reply having been expressly requested by the examiner.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 467 days, as argued by applicants.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 9/5/2007
Time: 15:15:34

PTA Calculations for Application: 10/661984			
Application Filing Date:	09/12/2003	PTO Delay (PTO):	467
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	49
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	09/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	49		
46	09/19/2006	MAIL NOTICE OF ALLOWANCE			
45	09/19/2006	MAIL EXAMINER'S AMENDMENT			
44	09/13/2006	ISSUE REVISION COMPLETED			
43	09/13/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	09/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
41	09/13/2006	EXAMINER'S AMENDMENT COMMUNICATION			
40	09/13/2006	NOTICE OF ALLOWABILITY			
39	07/17/2006	DATE FORWARDED TO EXAMINER			
38	07/07/2006	SUPPLEMENTAL RESPONSE		49	34
37	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	05/30/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
35	05/30/2006	DATE FORWARDED TO EXAMINER			
34	05/19/2006	RESPONSE AFTER NON-FINAL ACTION			
33	05/19/2006	NEW OR ADDITIONAL DRAWING FILED			
32	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/22/2006	MAIL NON-FINAL REJECTION	467		-1
30	02/21/2006	NON-FINAL REJECTION			
29	05/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	12/22/2005	PRELIMINARY AMENDMENT			
27	05/27/2005	REFERENCE CAPTURE ON IDS			
26	05/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

25	06/03/2005	CORRESPONDENCE ADDRESS CHANGE			
24	11/09/2004	CORRESPONDENCE ADDRESS CHANGE			
23	11/10/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	08/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	03/18/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
19	04/14/2004	APPLICATION RETURN FROM OIPE			
18	04/14/2004	APPLICATION RETURN TO OIPE			
17	04/13/2004	APPLICATION DISPATCHED FROM OIPE			
16	04/14/2004	APPLICATION IS NOW COMPLETE			
15	03/18/2004	ADDITIONAL APPLICATION FILING FEES			
14	03/18/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
13	03/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	09/12/2003	CLAIM PRELIMINARY AMENDMENT			
11	04/13/2004	CORRESPONDENCE ADDRESS CHANGE			
10	03/26/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	01/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
7	09/12/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	11/24/2003	CASE CLASSIFIED BY OIPE			
5	11/24/2003	CLEARED BY OIPE CSR			
4	10/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/26/2003	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
2	09/12/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/12/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/21/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/661991** Patent No.: **6845191**

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: All changes approved since the mistakes being corrected are of a typographical nature and the correction does not involve changes which would constitute new matter or require reexamination.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2872
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

JOE NIEH
18760 E. AMAR ROAD #204
WALNUT, CA 91789

COPY MAILED

MAR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Garry Tsaur	:	
Application No. 10/661,997	:	
Filing or 371(c) Date: 09/12/2003	:	
Title of Invention:	:	
SPECIMEN COLLECTOR	:	ON PETITION

This is a decision on the "Petition to Withdraw Notice of Abandonment Under 37 CFR § 1.181", filed October 25, 2006. The delay in treating this petition is regretted.

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 February 10, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned May 11, 2006. A Notice of Abandonment was mailed August 24, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action, to wit – an Amendment and extension of time request and fee, was filed on August 9, 2006, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of the response, and a copy of his return-receipt postcard acknowledging receipt by this Office of the response on August 14, 2006.

Analysis and conclusion

A review of the response reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the response was mailed to this Office on August 9, 2006. The Certificate of Mailing was executed by Petitioner herein.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3763 for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Hasan Ertas et al	:	
Application No. 10/662,012	:	DECISION ON PETITION
Filed: September 11, 2003	:	TO WITHDRAW
Attorney Docket No. 3772P025	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jordan M. Becker and all the attorneys/agents of record have been revoked by the assignee of the patent application on December 30, 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 applicants.

This application is being referred to Technology Center AU 2612.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: FLYNN THIEL BOUTELL & TANIS
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1631

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

HICKMAN PALERMO
TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

COPY MAILED

FEB 10 2005

OFFICE OF PETITIONS

In re Application of:	:	
Shirin et al.	:	
Application No. 10/662,020	:	DECISION ON
Filed: September 11, 2003	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
MECHANISM FOR AUTOMATICALLY	:	
ESTABLISHING A RESOURCE GRID	:	

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 being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) 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 corrected filing receipt, indicating a projected publication date of March 17, 2005, accompanies the present petition.

This application is being referred to the Publishing Division for publishing of the application in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES E BAXLEY ESQ
90 JOHN ST
SUITE 309
NEW YORK NY 10038

COPY MAILED

AUG 29 2005

OFFICE OF PETITIONS

In re Application of		
Hsiu-Hsueh Wu	:	
Application No. 10/662,026	:	DECISION ON
Filed: September 12, 2003	:	PETITION
Attorney Docket No. 13927 B	:	

This is in response to the petition under 37 C.F.R. § 1.137(a), filed April 25, 2005, which is being treated as a petition under 37 C.F.R. §1.181 to withdraw the holding of abandonment.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed August 16, 2004. This Office action set a shortened statutory period for reply of one (1) month. No extensions of time were available under 37 C.F.R. §1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on September 17, 2004. A Notice of Abandonment was mailed on April 11, 2005.

A review of the application file reveals that applicant did timely file a response on August 30, 2004. However, the response contained the wrong serial number. Nevertheless, the response did contain other correct identifying information, such as the name of the inventor, filing date, Group Art Unit, Examiner name, docket number, and the title of the invention. Accordingly, the response did contain enough information to enable it to be properly matched with the correct file.

In view of the above, the holding of abandonment is **WITHDRAWN**.

Given the basis for granting this decision, the $250 petition fee will be refunded to petitioner under separate cover.

The application file is being forwarded to Group Art Unit 3636 for consideration of the response filed August 30, 2004 (copy resupplied with the instant petition on April 25, 2005).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

COPY

APR 23 2003

Paper No. 4

In re Application of :
Kalman Strobel *et al* : DECISION ON PETITION
Application No. 10/314,211 :
Filed: December 9, 2002 :
Attorney Docket No. STROBEL CROSS-SECTION

This is a decision on the petition to make special that was filed concurrently with the application and that was recently brought to the attention of the undersigned. The $130.00 petition fee has been paid.

The petition is granted.

Petitioners have requested special status based upon the practice established at MPEP § 708.02(I), Manufacture. A review of the petition shows that all of the elements required to establish entitlement to special status on that basis have been satisfied.

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 application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3725, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Alfred M. Walker
225 Old Country Road
Melville, NY 11747-2712

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

GREGORY J KOERNER
REDWOOD PATENT LAW
1291 EAST HILLSDALE BOULEVARD
SUITE 205
FOSTER CITY CA 94404

COPY MAILED

FEB 09 2007

OFFICE OF PETITIONS

In re Patent No. 6,946,007	:	
Issue Date: September 20, 2005	:	
Application No. 10/662,040	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 026471-4005	:	

This is a decision on the "Request For Certificate Of Correction Under under Rule 323", filed October 24, 2005.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 1.183 is granted. Such petition under 37 CFR 1.183 should include:

(A) the processing fee required by 37 CFR 1.17(i);

---

[1] See 37 CFR 3.81.

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The $130 processing fee set forth in 37 CFR 1.17(i) has been charged to Deposit Account No. 50-3367, as authorized.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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

SOFER & HAROUN
SUITE 910
317 MADISON AVENUE
NEW YORK NY 10017

COPY MAILED
NOV 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Moustafa Pourmehdi	:	
Application No. 10/662,048	:	DECISION GRANTING PETITION
Filed: September 11, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1053-002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, 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 petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance and the Notice of Allowability of March 7, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication and for the review of the drawings submitted on July 10, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RYAN KROMHOLZ & MANION SC
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

COPY MAILED

APR 1 9 2005

OFFICE OF PETITIONS

In re Application of	:
Joseph W. Boggs et al	: DECISION ON PETITIONS
Application No. 10/662,055	: UNDER 37 CFR 1.78(a)(3) AND
Filed: September 12, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9469.18443	:

This is a decision on the petition, filed November 4, 2004, which is being treated, for the reasons stated below, as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of prior-filed nonprovisional Application No. 10/113,828, filed March 29, 2002, and, presumably, provisional Application No. 60/280,222.

The petition is **DISMISSED**.

Initially, in reviewing the amendment in the petition, it is noted that Application No. 10/113,828 is being claimed as both a nonprovisional and as a provisional application, which is clearly in error. In view of the fact that Application No. 10/113,828 claims priority to provisional Application No. 60/280,222, it is presumed that petitioner meant to claim priority to that application. Therefore, the petition is being treated both as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require

> additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i) and (a)(2)(iii) and 1.78(a)(5)(i) and (a)(5)(iii) . In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, if petitioner is also seeking to claim priority to provisional Application No. 60/280,222, then an incorporation by reference statement would be inappropriate in any subsequently filed amendment. 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) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment (complying with the provisions of 37 CFR 1.121) and correcting the above matters 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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN J. TIMAR
WOMBLE CARLYLE SANDRIDGE & RICE
POST OFFICE BOX 7037
ATLANTA, GA 30357-0037

COPY MAILED

JAN 1 5 2004

OFFICE OF PETITIONS

In re Application of
Javier Ramon Echauz et al
Application No. 10/662,072
Filed: September 12, 2003
Attorney Docket No. I080 1010.2

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 6, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Javier Ramon Echauz
2. Rosana Esteller
3. Brian Litt
4. George John Vachtsevanos

A corrected filing receipt with the desired order of inventorship is enclosed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEFFERT JAY & POLGLAZE, P.A.
ATTN: THOMAS W. LEFFERT
P.O. BOX 581009
MINNEAPOLIS MN 55458-1009

COPY MAILED

FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Chun Chen et al	:	
Application No. 10/662,074	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 400.181US03	:	

This is a decision on the petition, filed February 18, 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 31, 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 2822 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

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER PA
PO BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Cooke, et al.	:	
Application No. 10/662,129	:	DECISION ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 279.445US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 25, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed June 4, 2007. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on December 28, 2007, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on December 10, 2007. The Amendment was made timely with a three month extension of time, and with a Certificate of Mailing dated December 4, 2007. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3762 for consideration of the Amendment filed December 10, 2007 (Certificate of Mailing dated December 4, 2007).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

James P. Muraff, Esq.
WALLENSTEIN WAGNER & ROCKEY, LTD
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

COPY MAILED
MAY 13 2004
OFFICE OF PETITIONS

In re Application of:	:	
Khoshbin et al.	:	
Application No. 10/662,133	:	DECISION NOTING
Filed: September 12, 2003	:	JOINDER OF
Title of Invention: METHOD AND	:	INVENTOR
APPARATUS INTERFACING WITH A POINT	:	
OF SALE DEVICE	:	

This is in response to the Petition Under 37 CFR 1.47(a) to Acccept the Declaration Without Two Inventor Signatures, filed March 26, 2004, and supplemented April 19, 2004, noting the joinder of the inventors.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of
BYSOUTH et al.
Application No. 10/662,142
Filed: September 15, 2003
Attorney Docket No. C05202-11216US1
(71580)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 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 2, 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) 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

This application is being referred to Publishing Division for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: William A. Teoli, Jr.
410 Swing Road
Greensboro, NC 27409

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:
Bhumibol Adulyadej, His Majesty King	:
Application No. 10/662,145	: Decision on
Filed: September 15, 2003	: Petition
For: Weather Modification by Royal	:
Rainmaking Technology	:

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Petition under 37 CFR 1.183 to Waive the Requirements of 37 CFR 1.32," received on July 13, 2009.

The petition under 37 CFR 1.183 is granted.

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. *See* 35 U.S.C. § 41(a)(7). The required $400 fee for the petition under 37 CFR 1.183 has been paid.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Robert A Clarke

Robert A. Clarke
Director and Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KANE & CO., PLC
210 COMMERCE BUILDING
5 LYON ST. N.W.
GRAND RAPIDS, MI 49503

COPY MAILED
AUG 15 2006
OFFICE OF PETITIONS

In re Application of :
Eric S. Toth et al :
Application No. 10/662,150 : ON PETITION
Filed: September 12, 2003 :
Attorney Docket No. 04057.008 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

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 July 20, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 21, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted on February 8, 2006 and March 2, 2006 was subsequent to the maximum extendable period for reply, these fees are unnecessary and being credited to petitioner's credit card.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/662,150	TOTH ET AL.	
	Examiner	Art Unit	
	Dennis H. Pedder	3612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 March 2006 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 _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Dennis H. Pedder
Primary Examiner
Art Unit: 3612

8/9/06

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
10/662,150	09/12/2003	Eric S. Toth	04057.008

CONFIRMATION NO. 8722

OC000000019978106

OC000000019978106

53178
KANE & CO., PLC
210 Commerce Building
5 Lyon St. N.W.
GRAND RAPIDS, MI 49503

Date Mailed: 08/10/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2006.

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.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/662,150	09/12/2003	Eric S. Toth	04057.008

CONFIRMATION NO. 8722

OC000000019978037

OC000000019978037

53178
KANE & CO., PLC
210 Commerce Building
5 Lyon St. N.W.
GRAND RAPIDS, MI 49503

Date Mailed: 08/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2006.

- 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).

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

12-11-07

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 6,906,957
Inventor(s) : Antonino Conte, et. al.
Issued : June 14, 2005
For: SENSING CIRCUITRY FOR READING AND VERIFING THE CONTENTS OF ELECTRICALLY PROGRAMMABLE AND ERSABLE NON-VOLATILE MEMOR CELLS, USEFL IN L OW SUPPY-VOLTAGE TECHNOLOGIES

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error on the title page, item [30] is printed in accordance with the record.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Bryan A. Santarelli
Graybeal Jackson Haley
Suite 350
133-108th Avenue NE
Bellevue WA 98004-5973

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 04-04

HUGO A. DELEVIE
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

APR 02 2004

OFFICE OF PETITIONS

In re Application of	:
Richard C. Wilson	: DECISION DISMISSING
Application No. 10/662,152	: PETITION AS MOOT
Filed: 12 September, 2003	:
Attorney Dkt No. 12230-008	:

This is a decision on the petition, filed under 37 CFR 1.10(d) on 16 January, 2004, requesting that the above-identified application be accorded a filing date of 12 September, 2003.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 12 September, 2003.

As the application has been accorded a filing date of 12 September, 2003, the present petition is unnecessary and will be dismissed as involving a moot issue.

A replacement Filing Receipt is enclosed for petitioner's convenience.

No petition fee is due, and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIRECTOR STRATEGIC SYSTEMS PROGRAMS
ATTN: Darrell E. Hollis, Code SPLe-4
Room 10041
287 Somers Court N.W.
Washington DC 20393-5446

COPY MAILED

AUG 30 2005

OFFICE OF PETITIONS

In re Application of :
HEFFNER et al. :
Application No. 10/662,162 :
Filed: September 12, 2003 :
Attorney Docket No. 75463 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 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 a Notice to File Missing Parts of Nonprovisional Application mailed December 17, 2003, which set a period for reply of two (2) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 18, 2004.

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 the 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 properly executed declaration with the signature of David M. File and the late declaration surcharge fee of $130; (2) the petition fee; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of December 17, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Frances Hicks

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 1450Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of
Diego Dayan et al.
Application No. 10/662,168
Filed: September 10, 2003
Attorney Docket No. 02875/100H491-US1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the petitions filed November 1, 2004, under 37 CFR 1.47(a) and 37 CFR 1.137(b), in response to the Notice to of Incomplete Reply, mailed August 2, 2004.

The petition under 37 CFR 1.137(b) is **DISMISSED**.
The petition under 37 CFR 1.47(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is not a final agency decision.

The above-identified application was filed on September 10, 2003, naming Diego Dayan, Abel A. Godon, Jorge A. Estevez, Federico Alavarez, Ivan S. Entel and Samuel S. Tenembaum, but without a signed declaration. Accordingly, on December 3, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. A response to the Notice was filed July 6, 2004 with a request for a five month extension of time. While the response included an oath or declaration, the oath or declaration was not executed by joint inventor Diego Dayan and thus since the time allowable for response had elapsed, the application became abandoned.

The present petitions seek revival under 37 CFR 1.137(b) and status under 37 CFR 1.47(a). Petitioner claims that they have mailed the declaration to Mr. Dayan and spoken to him regarding the declaration but that he has not returned the same, thus by his actions, Mr. Dayan has refused to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The statement made by Silvina Pirraglia reveal that the declaration was sent to Mr. Dayan, but don't indicate that the complete application was ever sent to Mr. Dayan. Thus, there is no evidence to show that Mr. Dayan had the benefit of reviewing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

A <u>grantable</u> petition filed under the provisions of 37 CFR 1.137(b) <u>must</u> 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)).

Since the petition under 37 CFR 1.47(a), also filed November 1, 2004, is dismissed, the required reply under 37 CFR 1.137(b), item (1), is also lacking.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Diego Dayan et al.
Application No. 10/662,168
Filed: September 10, 2003
Attorney Docket No. 02875/100H491-US1

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petitions filed April 1, 2005, under 37 CFR 1.47(a) and 37 CFR 1.137(b), in response to the decision mailed January 5, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED.**
The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 10, 2003, naming Diego Dayan, Abel A. Godon, Jorge A. Estevez, Federico Alavarez, Ivan S. Entel and Samuel S. Tenembaum, but without a signed declaration. Accordingly, on December 3, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. A response to the Notice was filed July 6, 2004 with a request for a five month extension of time. While the response included an oath or declaration, the oath or declaration was not executed by joint inventor Diego Dayan and thus since the time allowable for response had elapsed, the application became abandoned.

A petition seeking revival under 37 CFR 1.137(b) and status under 37 CFR 1.47(a) was filed November 1, 2004 wherein petitioner claimed that the declaration was mailed to Mr. Dayan but that he had failed to return an executed copy. The petition further claimed that by his actions, Mr. Dayan has refused to cooperate with the filing of the instant application. The petition to accord status was refused because the statement provided by Silvina Pirraglia revealed that the declaration was sent to Mr. Dayan, but didn't indicate that the complete application was ever sent to Mr. Dayan. Thus, there was no evidence to show that Mr. Dayan had the benefit of reviewing the application.

Since the required response, a grantable petition under 37 CFR 1.47 was not provided, the requirements under 37 CFR 1.137(b)[1] were also lacking and the petition to revive

---

[1]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

was dismissed in a decision mailed January 5, 2005.

Comes now petitioner with a request for reconsideration under 37 CFR 1.47(a) and a renewed petition under 37 CFR 1.137(b). Petitioner submits a supplemental statement by Silvina Pirraglia in which Ms. Pirraglia adds that the correspondence mailed to Mr. Dayan included the application and the declaration and that the date the correspondence was mailed was May 5, 2004 instead of May 11, 2004 as previously indicated.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

In view of the above and the requirements for reviving the application having therefore been met, the petition under 37 CFR 1.137(b) is granted.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DIEGO DAYAN
MOLDES 1139, 6B
BUENOS AIRES 1428
ARGENTINA

COPY MAILED

MAY 04 2005

OFFICE OF PETITIONS

In re Application of
Diego Dayan et al.
Application No. 10/662,168
Filed: September 10, 2003
For: COMPUTERIZED ADVERTISING METHOD AND SYSTEM

Dear Mr. Dayan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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 17 2004

MAILED

SEP 17 2004

OFFICE OF THE DIRECTOR
TC 3600

ROBERT J. BIRD
86 French Road
Rochester, NY 14618

In re application of
Louis M. Traino
Application No. 10/662,174
Filed: September 15, 2003
For: ADJUSTABLE READING TABLE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on August 25, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **DENIED**.

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 was a declaration for Mr. Nauert indicating that he is at least 65 years of age signed by the Applicant's Attorney. As stated in the above paragraph the declaration must be from the applicant, therefore signed by the applicant.

If you have any questions on this matter, please contact Steve Meyers (703) 308-3868.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 9/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

DEC 21 2004

TECHNOLOGY CENTER 3600

ROBERT J. BIRD
86 French Road
Rochester, NY 14618

In re application of	:	**DECISION ON PETITION**
Louis M. Traino	:	**TO MAKE SPECIAL**
Application No. 10/662,174	:	**(APPLICANT'S AGE)**
Filed: September 15, 2003	:	
For: ADJUSTABLE READING TABLE		

This is a decision on the petition submitted on September 29, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Traino indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/pav: 12/21/04